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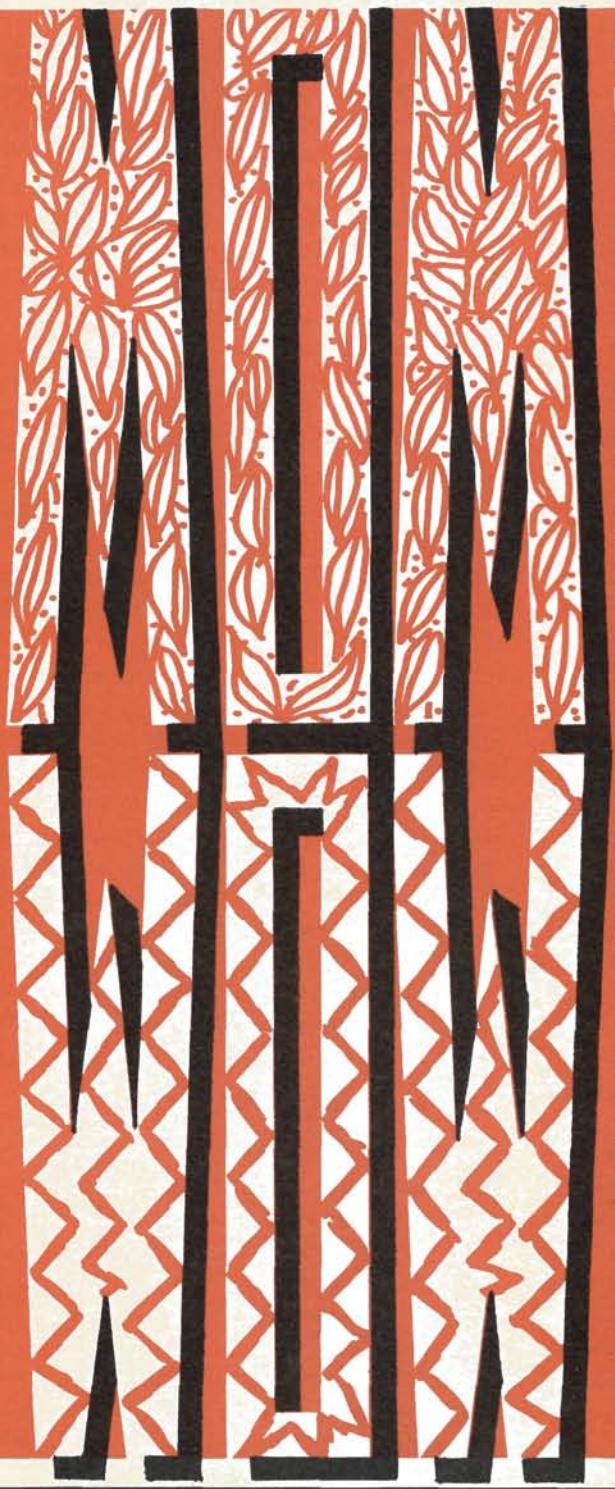

TWO IS NOT ENOUGH
Jo McGowan

'MOMMY TRACK'
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3 views on THE CRUZAN CASE
Issues and ramifications:

WHEN SHOULD THE STATE STEP ASIDE?
John Collins Harvey

Kevin P. Quinn

Sandra H. Johnson

REPORT ON ISRAEL
Margaret O'Brien Steinfels

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CORRESPONDENCE

Abortion politics

Bridgewater, N.J.

To the Editors: Having been quoted as a source of information in Mary Segers's article, "Semantics and Style in the Abortion Campaign" [January 12], I feel I must clarify some of the points she made. Also, in my view, the article presents an obvious bias in favor of the pro-abortion position.

Ms. Segers credits me with saying "prolife groups are pleased with the assembly elections because only 70 percent of the Choice-PAC's 67 endorsed candidates won." This is her interpretation of my remarks—a pro-abortion bias coming through. I would never say I was "pleased" with the election of any pro-abortion candidates.

What I really said was: "Every prolife candidate who maintained his/her prolife position was elected—some in the face of major campaigns against them, well-organized and well-financed by pro-abortion groups. It is *not* a liability to be a prolife candidate in New Jersey." I also feel the new assembly may present more of a challenge, but prolife supporters still represent the largest single bloc of votes. These, along with some of the undecided, will provide the votes necessary to pass life-protective legislation.

I take strong exception to Ms. Segers's characterization of the Life Roll project conducted on Respect Life Sunday as politically motivated. Plans for Life Roll began almost a year before it happened. Long before the *Webster* decision came down, long before anyone knew the character of the New Jersey elections, it had been decided to ask the Catholics of New Jersey to sign a statement in support of the unborn and others threatened by a lessening of respect for life in our society, and to indicate their willingness to take a more active role in prolife work. Since the first Sunday in October has for many years been designated Respect Life Sunday by the bishops of the United States, what better day to focus people's attention on the problem, and ask for their help?

The people who signed Life Roll cards (only adult Catholics, children were not asked to sign) will be asked to contact their legislators when pertinent legislation is pending. Speaking to our legislators is every American's right, Catholic or not; the Life Roll list facilitates keeping the signers aware when prolife legislation is under consideration. There is no intent to use the list to contact candidates for office.

Ms. Segers criticizes the "appearance of partisanship" at Mass. If she looks closely, she will see prolife legislators come from all political backgrounds. One cannot be prolife *and* partisan. Which is why the church takes a position only on *principles*, never on candidates. She also criticizes the fact that the priest "coerces conscience" at Mass. Indeed, is that not what he is supposed to do? Isn't he charged to use his homily time to remind the faithful of the teachings of the Gospel? If we have wandered from Jesus' way, shouldn't our conscience be pricked, or "coerced," back to the right path?

Life Roll is a legitimate tool, and in no way suspect because it occurred in the middle of an unsettled election. The people who signed Life Roll are willing to be the up-front folks. Many who did not sign want only to be the prayers in the background. The Catholics of New Jersey, and the many others who share our prolife position, are united in efforts to protect both mothers and babies from abortion and its aftermath.

RITA M. MARTIN

The writer is Prolife Director, Diocese of Metuchen, N.J.

The author replies:

1. It seems naive to insist that Project Life Roll was not politically motivated—since its stated purpose, according to Rita Martin, is to mobilize New Jersey Catholics to lobby state legislators to support prolife legislation. Moreover, the archbishop's statement read immediately before the Life Pledge specifically instructed Catholics "to uphold our moral position [on abortion] with our vote."

2. Ms. Martin speaks of "the Catholics of New Jersey" and seems to assume a Catholic consensus on the wisdom of restrictive abortion laws. However, public opinion polls show that a large majority of Catholics (73 percent) agree that the decision to have an abortion is a private matter that should be left to the woman to decide without government interference. Lawmakers should know that prolife commissions may claim to represent all the state's Catholics, but in reality almost three-quarters of New Jersey Catholics oppose restrictive abortion laws.

3. If prolife commissions wish to mobilize congregants to make public policy more congruent with church teaching, then the proper way to do this is to invite parishioners to attend an organizational meeting apart from Mass time. This preserves the freedom of individual parishioners and also promotes dialogue.

4. Like Ms. Martin, I want to defend the rights of *all* Americans to shape public policy in accord with philosophically deduced or religiously derived moral convictions. But in a pluralist, religiously diverse society, this is not easy. There are no automatic answers in Christian theology and Catholic teaching to the vexing ques-

(Continued on page 302)

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COMMONWEAL 65

CONTENTS

Volume CXVII, Number 9

Correspondence	274
Editorials	275
Nothing's simple: *Margaret O'Brien Steinfels*	277
Aborting history: *David R. Carlin, Jr.*	278
A common currency: *Abigail McCarthy*	279
Two is not enough: *Jo McGowan*	281
Other lives: *Katharine Byrne*	283
When should the state step aside?: *John Collins Harvey, Kevin P. Quinn, Sandra H. Johnson*	286
Stage: *Gerald Weales*	294
Screen: *Paul Baumann*	296

BOOKS

Jazz Cleopatra/He Included Me/ Motherwit: *Bette S. Weidman*	297
Where the Sun Never Shines: *Andrew Strom*	299
The Sun Also Sets: *Peter Kovler*	300

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Sacred, more or less

The case of Nancy Cruzan, discussed by three authors in the following pages, presents the sad story of a young woman who has existed in a "persistent vegetative state" for six years following an accident. Soon the U.S. Supreme Court will decide whether to accept the appeal of her parents from a Missouri Supreme Court decision denying their wish—which they contend represents their daughter's—to withdraw the artificial nutrition and hydration that sustain her in an unconscious condition that is beyond cure. The case presents legal and ethical issues so significant that numerous groups with conflicting agendas have filed *amicus* briefs urging differing resolutions—with the result that Nancy Cruzan's immediate problems may well be lost from view. Our own interest is similarly oblique, but not, we hope, exploitative.

Missouri's high court explains its decision against permitting Nancy Cruzan to die by citing the state's interest in preserving life and the its duty to honor the sanctity of life, regardless of circumstances. Whether or not one agrees, there is something admirable here—and something puzzling. Why so? Because at the moment there are seventy-two prisoners living on Death Row in Missouri. The latest execution took place on January 18, when Gerald Smith, convicted of murder in the first degree, was put to death.

For our purpose here, we assume that Smith and the others received fair trials, that they were in fact guilty, and that they were condemned to die because they had shown themselves callously indifferent to the lives of others. All that is important. What is more important is that each of the surviving seventy men and two women is possessed of the one property that most clearly marks us as human beings: consciousness; awareness of self and the world. It is self-awareness that makes us capable, unlike other sentient beings, of choice, and therefore of sin and crime—and of making new and different choices. It is this capacity—already irreversibly lost by Nancy Cruzan—that the state of Missouri wills to destroy in each of its condemned prisoners.

A young woman juror, asked recently by an NBC News correspondent why she had voted against the death penalty for a convicted murderer, said nothing about the circumstances of the case or about any qualms she may have felt over deciding the fate of another human being. She said, in effect, "I wanted him to live so he could think about what he did." That's on target. This juror, we think, understands something about the sacredness of human life not so clearly grasped by most administrators of justice in this country (not just in Missouri)—or by those candidates who vie for office by portraying themselves as tough enough to pull the switch, or by the demonstrators outside a prison on execution night who celebrate the extinction of another person. The gift of awareness confers the power to reflect, to feel remorse, to reshape the self. Taking that gift away—even from someone who has violently deprived another of the same gift—denies the sanctity of human life.

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FOR WANT OF CANDOR

One in Christ Jesus, the second draft of the bishops' letter on women, will stand, if approved next November, as the Catholic church's most thorough treatment of sexism. Yet the draft fails to make the voice of the church a reliable and forthright witness on this critical issue. It declines to address the chief impediment to full and equal partnership for women within the church: their exclusion from priestly orders, which prevents their full incorporation into the church's teaching and ruling structure.

The strengths of the present draft are many. It declares the equality of women as persons in every aspect of their lives: in the church, in society, in their personal lives; it argues that this equality is revealed in the Scriptures and reinforced by Christian tradition; and it states immediately that these ideals are far from being achieved. In fact, the bishops write, the sin of sexism has seeped into both social and ecclesial structures. As a consequence, the church and society are called to repentance. Women are no longer to be understood merely in light of their roles and their relationships to men, but in their full, essential, God-given humanity. The bishops reject all practices that deny this full equality ("Boys and men must be educated to respect the personal integrity of women, to recognize how sinful violence and every form of sexual exploitation really are"), and to offer twenty-five recommendations to foster such equality.

But there are inherent weaknesses evident throughout the draft pastoral. It is, finally, the letter of an all-male hierarchy, of a group of bishops that has listened attentively—it is true—to women's concerns but one that nonetheless speaks to women and about them from a distance. This draft preserves only a few remnants of the clear, strong, and varied comments of women that gave such a remarkable tone and texture to the first draft (see *Commonweal*, April 22, 1988). In their stead, this draft gives greater prominence to recent papal documents on women, some of which were occasioned by the possibility of a U.S. bishops' pastoral.

"Well I'm his mother and I say he's innocent!"

While this second draft retains a genuinely respectful stance toward women and their concerns, it lacks candor. When the bishops write that they support the theological preparation of women to preach the gospel, for example, they do not declare decisively that women should therefore officially preach the homily. Although they indicate that "an incapacity to deal with women as equals" should be considered a "negative indication for fitness to the priesthood," the bishops do not describe how this is to be implemented. Nor do they call for the study of women's concerns in seminary curricula, the presence of women spiritual directors there, or the feasibility of appointing women as rectors. Though they urge Rome to consider admitting women to the diaconal office, the bishops safely refrain from throwing their weight behind such a proposal. We wonder why, in the second draft, they drop an essential aspect from their definition of sexism, included in the first draft, that sexism is "the inevitable inequality entailed in the assignment of roles to persons on the basis of sex." Does the earlier definition come too close to the church's reaffirmed exclusion of women from the ordained priesthood, an exclusion the U.S. bishops seem to accept as final? The bishops write that they are open to a continued search for an adequate explanation of the church's teaching on male priesthood. Then why is their observation in the first draft that some Catholics—including biblical and theological scholars—do not find the arguments put forth by the Vatican excluding women from the priesthood "convincing or persuasive" missing from the second?

A sea change is taking place in human consciousness, the consequences of which are far greater than those resulting from the fall of the Iron Curtain. It is the long delayed but irresistible appreciation of the full personhood and equality of women. It is based in part on the fuller realization of what it means "to be one in Christ Jesus." That oneness remains incomplete in both church and world. The bishops write that, "We must respond with imagination and courage to eradicate the injustice that keeps us from the full stature of Christ." Judging from this second draft, their work has just begun.

LIFE ON MADISON AVE.

SURREAL NEWS ITEM: Catholic bishops announce multi-million-dollar anti-abortion public relations and polling effort.

SURREAL SETTING: A boardroom somewhere in the Mideast a long time ago—sort of. A group of men in robes and sandals are sitting around a polished table. Brows are furrowed, halos askew. Rolex sundials strapped to their wrists glint in the olive oil light.

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PETER: These latest figures are very disappointing, gentlemen. Clearly the momentum has swung to the other side, to those I choose to call the decadent bourgeoisie.

PHILIP: Unregenerate pagans, in other words.

PETER: Correct. The politicians, I am afraid, are showing the backbone of a Roman magistrate or a CBS News executive. Frankly, it makes me long for the days when Gnosticism was our biggest problem.

ANDREW: I agree we're adrift. But I think much of the blame rests on our own shoulders. If we can't convince those already in the basilicas, how can we expect to persuade the unbaptized?

JOHN: Spare us the usual masochistic blubbering, Andrew.

ANDREW: Charity and service remain the...

JOHN: If the damn Huns wiped every last Christian from the face of the earth, Andrew would tell us we didn't show them enough brotherly love. Wake up and smell the pillaged cities, lad. What worked in Syria and other backwaters a century ago isn't going to work today.

PHILIP: What do you have in mind, John? I trust we won't be going prime time with any more exorcisms?

JOHN: Oh, go on with ya. It was a slow news day. Besides, an exorcism every now and then never hurt anyone. But the current crisis calls for more sophisticated techniques.

PETER: Go on.

JOHN: I think advertising is the way to go. I've been talking with some public relations people. And with some polling groups.

ANDREW: This is scandal.

JOHN: Living exemplary lives is all very well and good, lads. Very necessary, I grant you, and I wouldn't dream of standing in your way, Andrew. But times change. This is not some smoke-and-mirrors Mystery religion we're dealing with. This is the very spirit of the modern world! We need to speak to people in a language they understand.

ANDREW: Perhaps that language is part of the problem.

JOHN: No more wheat germ and sprouts for this one, hey boys.

PETER: Whom have you talked with, John?

JOHN: The Agrippa Group. They came highly recommended. Done a lot of stuff for the Empire.

ANDREW: Didn't they have Pilate's account?

JOHN: See. These guys are geniuses.

PETER: What do you suppose this will cost us?

JOHN: Couple of million, tops.

PHILIP: We'd get murdered in the press. I can see Anna Quindlen's column already: We're deaf on sex and now we've sold our souls to the heathen media merchants.

JOHN: Deaf on what?

PHILIP: But how could we justify spending that kind of money on a political campaign? What about the separation of church and Empire? What about almsgiving?

JOHN: That's the beauty of it. I've gotten the Knights to pay the bill.

ANDREW: That doesn't make it right.

JOHN: What is this guy, a Quaker? Let me lay it out for you. I envisage a series of thirty-second spots. Something dignified, but eye-catching. Nothing too Byzantine. We're sort of looking to Rome. By way of Hollywood, of course.

REPORT ON ISRAEL

NOTHING'S SIMPLE

A LAND OF INTENSE CONVERSATIONS

Although she considered herself a Zionist, Hannah Arendt opposed the creation of a specifically Jewish state. She hoped that by developing new forms of government in cooperation with Arabs, the Jewish people would give the world alternatives to the racism, nationalism, and the excesses of individualism that had produced modern totalitarianism. Her views did not prevail. But at least some Israeli Jews cling to this precarious commitment to Zionism and a wider ethical mission: they feel a responsibility to their fellow citizens, both Jewish and Arab, to the Palestinians in the Occupied Territories, to Soviet Jewish emigres, and to principles of social justice. The irony of their situation is not lost on them, nor on the Palestinians who understand this larger ethical pull and have learned to use its leverage in the *intifada*.

One week's worth of conversations does not confer expertise or even great optimism. Yet every conversation was one that promised a possible crack in the hostilities, that yielded grudging respect to one's opponents (or at least their cunning), that mirrored the subtle and intense relations between Israelis and Palestinians. Curiously enough none of these conversations could have taken place in the United States.

Our hosts arranged meetings with as many groups, Israeli and Palestinian, as we could fit into a sixteen-hour day. All the players have well-honed political and rhetorical skills. Everyone announces him or herself a moderate. Everyone is for peace (no, we did not meet Ariel Sharon, but statistics widely quoted show the Israeli public increasingly in favor of land for peace). Every detail of the wheeling and dealing that goes into forming a government is pored over for its larger implications. (Israel's system of proportional voting allows parties that win 1 percent of the vote a place in the Knesset, giving small parties disproportionate influence.) It is widely acknowledged that the *intifada* is not simply a political challenge to Israel; it is a moral one as well. (A Palestinian journalist: "The early values of Zionism are losing hold and what is happening in Israel itself is more dangerous than the Palestinians.") Denials to the contrary, the Palestinians are participants, directly and indirectly, in this convoluted effort to find a way out of the political, social, and economic morass created by the occupation and exposed by the *intifada*.

Can Israel rise to the challenge? A surprising number of Palestinians seem to count on it.

Israeli soldiers and reservists are regularly exposed to the living conditions of the Palestinians and to the moral problems of fighting the *intifada*. Meting out collective punishments, demolishing houses, carrying out night-time arrests ("climbing

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over children and a man's wife to take him to jail—it is awful"), enforcing curfews—the corrosive effects on Israeli society are widely feared. This possibly moderating fear is balanced against the apprehension over secure borders and the hostility of the Arab states (during our stay, Iraq's threats of chemical warfare briefly eclipsed Mr. Peres's search for the sixty-first vote needed to form a Labor coalition government).

The Palestinians too are brutalized by the *intifada* and its fall-out. Unknown assailants are reported to have killed 200 Palestinians said to have "collaborated" with the Israelis—are our interlocutors possible candidates? The Palestinians, too, fear the effects of the *intifada* on their children. They are apprehensive about the growing power of the Islamic fundamentalists, and the intractable crisis that has kept the Israeli government from beginning the peace process ("The Israelis have no consensus, but we do"). Some hold "you Americans" directly responsible for this unending struggle. A striking performance of "A Reservist's Diary" by the Kibbutz Dance Company silently evokes the emotional power of these shared grievances and fears.

But there are more divisions inside Israel: A Jewish woman characterizes relations between Israeli Arabs and Jews: "mistrust, fear, stereotyping. Jewish and Arab Israeli children can grow up without meeting each other." "Because Arabs cannot join the army, they do not enjoy the full rights of Israeli citizens, are barred from certain industries and professions"; yet, she adds in a critical voice, "the Orthodox students studying in yeshivas don't serve either, and still enjoy full civil rights." She hopes for an equitable alternative, perhaps some form of national service. She says the *intifada* has not drawn Israeli Arabs into the territories, but has strengthened them "in their resolve to remain Israeli citizens." Israeli Arabs agree: they insist on their loyalty, do not join the *intifada*, yet feel solidarity with their fellows in the West Bank and Gaza and show it with material and financial support. They grapple with several dilemmas: "Our state is at war with our people." And, "without full civil rights ourselves, it is hard to convince our brothers to trust the Jews."

On one point, across the Jewish political spectrum, there is no hesitation: the Soviet Jews must be welcomed, housed, taught Hebrew, given jobs even while emigration from Israel continues because of the economic crisis, the housing shortage, the security problems. Will the Soviets stay? Or move on? Who knows? What should the Palestinians worry about? Not simply about Soviet-Jewish settlements in the West Bank, but about the right-wing politics the new immigrants may take up in reaction to the "socialism" they have left behind.

No one has a kind word for a political system that has kept Israel on hold since 1984, but no one expects serious reform soon. Peace will come—or not—with the current factionalism in place. The bargaining and buying to form a government scandalizes everyone, including the Palestinians, yet there is an addiction to news of preposterous demands (one straying Knesset member sought a $2.5 million bond to insure a place on party lists in the next election). Even Kibbutzniks cannot have their communal meetings until after the nightly news.

What constitutes security in a small Jewish state surrounded by larger Arab neighbors? What constitutes peace? Everyone says "peace." Peace with the Palestinians. Peace with Iraq, Syria, Jordan. Which comes first? Peace or security? Or with which nation? We are quickly into the chicken and the egg. Other questions are warily explored: Jerusalem, control of water supplies, the settlements. More layers in the onion that we steadily work at peeling back.

Everything in Israel and the West Bank is complex, the people above all. Curiously no one despairs of a resolution. A Palestinian woman tells us that a sense of historical responsibility will allow Israelis to break through the dawdling of leaders and the constraints of security interests. She is optimistic. "We have morally armed ourselves"—a condition that she believes the Israelis understand. I think she is right.

MARGARET O'BRIEN STEINFELS

Margaret O'Brien Steinfels is editor of Commonweal. *She visited Israel from March 30 through April 7. The trip was organized by the International Center for Development Policy, Washington, D.C., and sponsored by the World Zionist Organization and the United Workers' Party of Israel (MAPAM).*

OF SEVERAL MINDS David R. Carlin, Jr.

ABORTING HISTORY

RESPONSIBILITY & REMEMBERING

In the great ages of philosophy, some metaphysicians (e.g., Plotinus, Aquinas, Spinoza, Leibniz, Hegel) developed comprehensive explanatory systems to account for the whole of reality. In the twentieth century physicists such as Einstein and Stephen Hawking have worked at developing a grand unified theory that would bring all physical knowledge into a single comprehensive system.

My own systematic ambitions are more modest: I hope to live long enough to systematize my prejudices. In one's youth it doesn't matter that one has likes and dislikes that contradict one another. But as one grows older a lack of consistency in these things argues a lack of character. Mature people should have a well-defined character—preferably a good character, but better a bad character than none at all.

Now, two of my prejudices are these: (a) I disapprove of the generous tolerance given to abortion in America; and (b) I am greatly annoyed by the immense ignorance of history shown by the typical American college student. (The other day a friend of mine, a teacher, had his day ruined when a student in class opined that Thomas

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Jefferson was president of the U.S. "about twenty years ago.")

But what does abortion have to do with an ignorance of history? It is unlikely that either one causes the other. But is there a third something that perhaps causes both? I think there is.

In the old, preabortion era, it required only one decisive act to have a baby—the act of sexual intercourse with conception resulting. And that's an act that requires two partners: "It takes two to tango," as people used to say. But in our abortion culture it requires *two* decisive acts to have a baby: the sexual act *plus* the decision not to terminate the pregnancy through abortion. This latter act is neither a tango nor any other dance with two partners; it is a solo performance; by law only the woman, not the couple, has the right to decide whether or not to have an abortion. And since the solo takes place after the duet, it can plausibly be argued by the male partner that the baby was born as a direct result not of *their* action of conceiving the baby but of *her* action of refusing to abort. In short, he can say that he's not really responsible for the baby.

I suppose there has always been a tendency for males to run away from responsibility for out-of-wedlock pregnancies. That's a perennial by-product of human nature (or Original Sin). But our abortion culture has given this tendency toward irresponsibility a new and almost infallible rationale. Nowadays chivalry no longer dictates that the young man should offer to marry the young woman; it only requires that he offer to pay for her abortion. If she declines this generous offer, he is off the hook; he can walk away from her and the baby with a clear conscience.

Of course, responsibility has never been the strong suit of young men as a class. That's why they get in trouble with the police more than any other age/sex group and why their auto insurance premiums are so expensive. Traditionally we've known about this tendency toward irresponsibility and have tried to discourage it, to keep it under some sort of control. The abortion culture, by contrast, stimulates it, at least as far as sexual conduct is concerned.

Whether by nature or for some other reason, young women as a rule tend to be more responsible than young men. But to the degree they associate with young men, the habits of these young men will rub off on them; and when it comes to sexual conduct, it is precisely young men they most significantly associate with. Of course the tendency toward irresponsibility they acquire in this way cannot manifest itself as it does in their male friends: the girls are not able to take a walk and leave the boys to worry about the pregnancy. No, but they are able to walk out on the pregnancy in another way—by terminating it. If the abortion culture promotes irresponsibility, the sign of this irresponsibility in young women is abortion itself.

I realize there are many exceptions to the rules I have just described. There are still young men (victims perhaps of cultural lag) who neither press their girlfriends to have abortions nor take a walk on them. And there are still young women who, in a spirit of responsibility, decline to terminate their pregnancies; there are even young women who, whether misguided or not, elect to have abortions in a spirit of responsibility. But of all the silly propositions that contemporary secular piety requires us to receive with reverence, the proposition that abortion decision making among the young is conducted in an atmosphere dense with a spirit of responsibility is among the silliest.

So what does all this have to do with not having the foggiest ideas, for instance, of when Thomas Jefferson was in the White House?

If you don't know the periodic table of the elements, you suffer from a deficiency of knowledge; that's bad enough. But if you have no idea when Thomas Jefferson was going about his business, or what business he was going about, that's far worse: you have a deficit not only in knowledge but also in responsibility.

One of the principal differences between a building and a republic is that the building can survive even if the bricks that compose it are not solicitous for the building's well-being; a good superintendent of maintenance with a healthy budget will take care of all that. But a republic cannot survive if its component parts, its citizens, fail to be solicitous for its well-being. Yet they cannot care for that which they do not understand; and they cannot understand their republic if they do not know its history, or at least its historical myth.

A good citizen, then, will know his country's history. This was true in ancient Rome; it is true in the United States today. It is even true of the world as a whole today: if you mean to be a citizen of the world, a cosmopolitan in the strict sense of that word, you must know the history of the world. And if you don't know your country's history, this is a sign that you don't care, that you don't feel responsible for the well-being of your republic.

Historical ignorance and the abortion culture may seem a million miles apart; but they are not; they are intimate associates. They are but two faces of that many-faceted monster who goes by the name of irresponsibility. □

OF SEVERAL MINDS Abigail McCarthy

A COMMON CURRENCY

THE GIFT OF A SINGLE TONGUE

For those of us long addicted to public television, the face of Alistair Cooke is more familiar than that of many a relative. Only hear his name and the well-known face is there in the mind's eye—aristocratic, slightly horsy, with blue eyes a little protuberant—a very English face. And the voice and manner are with us once again—those of a confiding, avuncular, informative but never patronizing friend. Briton become American, he evokes what was most civilized in the country of his birth and his

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adopted one.

So, although the letter bearing his name was obviously a piece of promotional mail, I did not consign it to the wastebasket. I read it and found myself agreeing with Alistair. He and the organization for which he is spokesman, *U.S. English,* wanted to enlist my help in making English the official language of the United States.

That English is not our official language comes as a surprise to many Americans. Most of us have simply assumed that it was. As a letter writer to the *San Francisco Chronicle and Examiner* put it, "The Declaration, the Bill of Rights ... (and on and on) are in English. Are these not clear enough [examples] as to our official language?"

That was probably how the framers of the Constitution saw it since they did not include a clause establishing an official language. They were without exception men for whom English was their native tongue and from colonies ruled by the English-speaking. Yet we are told that even in their time there was some dispute over language. There was some argument for making German the official language of the new country. It was perhaps inspired by a post-revolutionary desire to separate from England in every way and, in part, because there were large German-speaking groups in Pennsylvania, New Jersey, and Maryland. But custom prevailed, and has prevailed, until recently. English was the language of the citizens of the United States. But not any more. Not exclusively.

"Until ten or fifteen years ago, there was never any doubt about it," writes Cooke. "But today we see cities and communities, with bewildered immigrant families, saying, 'Wouldn't it be simpler to let people stay with their native tongue? Print everything in two languages. Let them, in time, also learn English.'"

On further reading of material provided by *U.S. English*, the above seems a very temperate way of describing the highly politicized drive for bilingualism in significant sectors of the U.S. The drive has been largely fueled by the perceived needs of the Spanish-speaking immigrants, both legal and illegal, who have poured into the country from Central and South America. Hispanic community leaders, joined by some from other ethnic groups, have chosen to resist the use of English as the common language. They have claimed—perhaps with some justice—that to require English as a qualification for voting, or for being licensed to drive, or to enter certain occupations, is oppressive and discriminatory.

As a result of their pressure the federal government requires 375 U.S. jurisdictions to provide ballots for voting printed in other languages. In many jurisdictions special voter registration drives are conducted at taxpayer expense for those who wish to vote in their native language. De facto, without most Americans realizing it, English is no longer necessarily the language of the *citizen* of this country.

Evidently proponents of bilingualism intend to go further. The imposition of English (so viewed) is seen as a forced betrayal of ancestral culture, custom, and values. There are those who do not want to learn English, do not want to assimilate. As long as they pay taxes and obey the laws, say the leaders of the new ethnic blocs, why should they?

In a world torn by ethnic division the answer seems obvious. Language is unifying. The trend to bilingualism, argues Alistair Cooke, reverses the main American movement, over two centuries old, to meld many peoples into one. Cooke recalls that shortly after he himself came here as an immigrant, he visited a night class where immigrant parents of first-generation Americans were learning English. "It was a moving experience. It gave me a new appreciation of the foresight of the Founding Fathers in impressing on every American coin: '*E Pluribus Unum*'—Out of many, one."

The dream of "one nation, indivisible" could turn into a nightmare, a nightmare, Cooke warns, he has witnessed in countries in Asia, Africa, and the Middle East where nations struggle "to be united against the friction of competing languages."

We know that ethnic division based on language groups afflicts countries as disparate as Belgium and Indonesia and often leads to violence. It is rising as the Soviet Union crumbles and it is stirring in the newly free lands of Eastern Europe. To our north, Canada has never quite settled matters between its Francophone citizens and those who are Anglophone. As I write, once again Quebec is threatening to secede if the Meech Lake Accord (giving it special status) is *not* ratified, and New Brunswick, Manitoba, and Newfoundland threaten to do so if it *is*. It may not be too nightmarish to envision a time when a Spanish-speaking California or Florida threatens to secede from *our* union.

Such fears aside, most of us will agree that our two centuries and more of using English as our dominant language has been a practical way of knitting together a nation of diverse peoples. And it has not necessarily meant that they have thereby lost their roots, their folkways, or their festivals. If the common use of English is threatened now, it may be the time to affirm it as official, if not by constitutional amendment (as *U.S. English* proposes), then by a federal law. □

"For your information, Mac, I happen to LOVE the damn English language!"

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TWO IS NOT ENOUGH

OF BABIES, DIRTY DIAPERS & WONDER

JO McGOWAN

I live in India where, in the middle class, the two-child family is not only the ideal but close to the norm. Having but two children (or better yet, one) is seen as a patriotic duty, the only responsible choice. India has not yet reached China's level of enforcement, but it seems ready to move in that direction. All over the country, billboards are plastered with messages like "Small Family, Happy Family," "Boy or Girl, Stop at Two," and "Produce More Resources, Instead of Children."

When our second baby was born, the congratulation we heard most often was, "Now your family is complete." It was always said in a flat, declarative tone which grew to sound more and more like a warning. The first time I was mildly surprised: who was this person to tell me not to have any more children? As the days went on, however, and I kept on hearing the same phrase, I began to wonder what would happen if we did indeed increase the population further.

In America, the pressures are more subtle. I don't know any couples who practice family planning as a civic duty, but I know plenty who feel morally superior to those who appear not to plan at all. Three children may be tolerated (everyone is entitled to one mistake) but beyond that the waters get murky. Even one generation back, a woman could get pregnant every two or three years and excite no particular interest. Nowadays, a woman expecting her third child is asked, often by relative strangers, whether it was an accident and how she "feels" about it.

What is the problem with having a large family? Before I had any children, I used to say I wanted seven (just like my parents had). After my first, I scaled it down to five, and now that I have two, I find I'm willing to settle for four, but even this modest number evokes outrage and amazement.

The usual argument is, of course, the ecological one, but as that question is invariably raised by people whose politically correct two children are already consuming far more than their share of the world's resources, I find it difficult to accept the logic. The popular belief that overpopulation is the cause of poverty has been so decisively proven wrong that it is almost boring to go on discussing it, but somehow the notion persists. The question is not how many children a family produces but how much of the pie it consumes. Enlightened couples planning the size of their families should consider, then, not how many children they can afford, but how much they can afford to do without if they want children at all.

For my part, I am willing to continue life without a car, a telephone, running hot water, central heat, a television, stereo system, and a microwave oven, but I would like two more children. However, since I intend to continue traveling on jet planes and consuming far too much paper (to say nothing of a Christmas tree every year), those two additional children will probably be adopted.

When I mention this fact, my inquisitors calm down a bit, but not entirely. There is more to the two-child ideal than just concern for the planet, it seems. I wouldn't presume to judge what else is involved, but in a consumer-oriented society, it's not hard to guess.

I like children, especially my own. I like the carefree feeling that generally prevails in a house full of children. And I like the person I have become since becoming a mother. Just being pregnant and giving birth were such magical, earth-shattering events I can hardly believe they are in fact ordinary and common, the stuff of everyday life. They are, for me, treasured memories, almost sacramental in their significance. Both times, I entered another dimension of time and space and learned the meaning of single-mindedness. Both times, I discovered new limits to endurance and power, and both times my relationship with my husband deepened and changed.

But it is motherhood—the days in and out of it—which has really transformed me. My children have made me a better person. I am less selfish now—they have insisted on it. My time is no longer my own, and I cannot make plans and be reasonably certain of carrying them out. This drove me crazy with my first child (I was ferocious about the sanctity of his nap time), but after Cathleen was born, I found I was quite relaxed about my lack of control. Admitting defeat, perhaps, but this change in attitude fostered a new flexibility: I suddenly found myself quite capable of working in short bursts—five minutes snatched here and there would eventually produce an article or a book review. I actually wrote and published more in the year after she was

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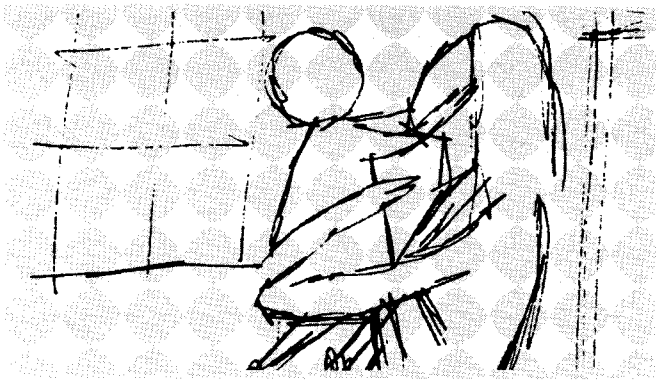

born than in any year previous.

It is not just that balancing work and motherhood requires discipline (a quality almost totally lacking in my life before), but that in becoming a parent, one enters another realm of existence. For a writer, to understand such a universal human experience seems critical, if not essential. But it is the *intensity* of the experience that I find so unnerving and grand.

Up until the time that my first child was born, I had done almost nothing of a sustained nature. I was twenty-five when Anand arrived, and drifting. I had been in and out of college several times and involved with the peace movement (including three months in jail) to varying degrees since I was eighteen. My jobs had been part-time and unskilled, and my writing was sporadic at best.

Having a baby was a shock. I went from a totally unstructured life to one hedged on all sides by the demands of another person. Suddenly, I was on call twenty-four hours a day, plunged without preparation into all the tiny details of caring for a child. Given my style of mothering (I may have been ignorant, but I was highly opinionated), there was no escape, either. I had to do *everything* myself.

Gradually I calmed down a bit, but even now, six years later, being a mother is still my primary focus. To have been at something so demanding, in so concentrated a fashion for six years is a source of amazement to me. Much of the power of the experience comes from this: the slogging through, the keeping at it. Masters of any discipline—writing or prayer or scientific research—attest to the fact that diligence is of prime importance. Sudden bursts of creativity or enlightenment or discovery are not sudden at all but the result of long, hard work.

Motherhood, because it is so common, is not generally accorded a place in the pantheon of disciplines but, while granting the smallness of its sphere, I believe the wisdom and understanding it can impart are as deep and as true as that acquired through philosophy, religion, or science.

Living with children so intimately turns life upside down. We learn to see through their eyes. Not only does this change our perspective on what is important and what is not, it also teaches us the beginnings of compassion. I know my children so well I can anticipate their reactions. I can sense the fears that lie beneath their antisocial behavior and, because I believe so deeply in their basic goodness, I can find a reason for almost any terrible thing that they do. It is automatic in me to give them the benefit of the doubt, to try to puzzle out their motives, to assume that they have their reasons. This may be due to the egotistical nature of parenthood—the belief that they are a reflection of me—but whatever the cause, it has become a habit in my dealings with other people as well. I am slower to judge now, likelier to realize that there is more to a situation than meets the eye.

To see life from a child's perspective does more than just provide excuses for negative actions, however. It is the best way to reexperience the world, to appreciate its mysteries, and to wonder at its possibilities. If I had the energy to respond each time my children made some new discovery about the world (the properties of water, the way a tree's branches bend, the feel of earth letting go as one climbs a sand dune, the fact of day in India and night in America) I would probably be as delirious with excitement as they are. I, too, would charge into life each morning, eager to start the fun all over again.

Of course, I don't respond every time. Being a grown-up seems to mean deliberately turning off that sense of wonder so as to get on with the business of life. But being a parent means having permission to indulge oneself. If I feel like fingerpainting or making sand castles or stopping on the way home from the market to toss pebbles in a puddle, who's to say no? When I do these things, in fact, someone is sure to comment on what a good mother I am.

My children please me. When my son was born, I was surprised to discover how much of my love for him was purely physical. Somehow I had expected the maternal experience to be on a higher, spiritual plane—but there I was gliding his hand across my cheek, nuzzling under his chin, and caressing his bottom whenever I got the chance. My favorite memories of his infancy are all physical: the weight of his head on my shoulder as he finally gave in to sleep, the feel of his hand on my breast as he nursed, the look of his glistening, perfect body as I massaged him with baby oil.

With whom but our children are we allowed to express our physical selves so freely? Even married couples cannot be openly affectionate without making others uncomfortable. But we can grab our children, twirl them around the room, kiss them, tickle them silly, hold them on our laps and caress and cuddle them to our (and their) hearts' content. It's O.K.

It is not just wonderful moments that make up parenthood, however. Romanticism and sentimentality seem pretty foolish when one confronts the day's pile of dirty diapers. Parents of infants are probably the most realistic and practical members of the race (and parents of infants who live in India, where both Pampers and washing machines are unheard of, head the list!). Newborn babies poop more often and more alarmingly than one would believe possible, and we continue to adore them.

People like me, who speak of the joys of parenthood, are not using empty words. I know all the bad parts, too. What parent doesn't? Which one hasn't spent sleepless nights with a crying child who refuses to be comforted? Which one hasn't agonized over a child's shortcomings, or tortured herself with nightmares of kidnapping and sudden death? Is there a parent who has never

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regretted losing his temper and striking his child, or wished desperately that her children had never been born?

Having done all these things, and admitting myself to be a most imperfect mother, I still want to have more children. Two is not enough. Having grown up in a large family myself, I suppose two just seems too miserly. To have only one sibling seems too poor a legacy to leave either of our present children. To grow up in a large, noisy, happy family is marvelous enough—but to be an adult in one is beyond all telling. When all seven of us gather at my parents' house, the atmosphere is electric with shared memories and old stories, with the knowledge of a common thread that binds us together no matter how far across the world we roam, with a love so deep it needs no words.

I want my children to have some of what I have. And as for me, I want to keep on growing. Just now, motherhood is very fertile soil. □

OTHER LIVES

A REPORT ON THE 'MOMMY TRACK'

KATHARINE BYRNE

Like the Molière character who found that he had been "talking prose for forty years without knowing it," I have learned only recently that the erratic, late-started, come-and-go career path which I have been following for forty years without knowing it is called the mommy track. In its original use, "The Mommy Track" was a denigrative term used to describe a firm's relegation to a slow pace going nowhere, those lawyers who take time out to bear and care for children, and who are presumed thereby to have vitiated that single-minded, tunnel-visioned devotion to the organization that leads to prestige and partnership. Moreover, such women are no longer to be trusted; recidivism is not unlikely. They may do it again. They have something else on their minds: What's in the freezer for dinner? Can I catch the last quarter of my daughter's soccer game? By extension, the term can be applied to the faltering progress of any woman whose career is interrupted, distracted, perhaps more than once. Even a couple of children may use up what could otherwise have been defined as "productive years."

Since distractibility, I see now, has been a leitmotif in my life, I am left with the need to put a good face on it. Can any value be claimed for the failure to achieve the rewards of fidelity to a career goal? For goals pursued earnestly but not exclusively, in a world that asks unswerving allegiance and early commitment even of the very young? (An eleven-year-old I know is urged to take the SAT this year, and in coming years, to get used to test-taking and to demonstrate a capacity and willingness to pursue unfalteringly a "serious career in the sciences.")

Early in my own life distractibility was evident. During one of those painful bring-your-mother sessions, I heard myself described by Sister Regimenta as "distractible," lacking application, a quality described on the archdiocesan report card as "undivided attention; persistent effort." In those times a subject called penmanship was pursued persistently, and the Palmer Method of Writing was as firmly entrenched in the curriculum as the *Baltimore Catechism*. Each day the aspirants for a Palmer diploma warmed up to the task by producing on pale, blue-lined theme paper, row after row of up-and-downs and round-and-rounds. After a certain and insufficient number of these exercises, my mind would wander, my pen would waver as I watched clouds forming over Lake Michigan or a woman hanging out clothes or maple tree spinners twirling the wind. Or fantasized about the White Sox winning the pennant, if only Ted Lyons could pitch every day. And did not win a Palmer diploma.

A later and major distraction came soon after my acceptance in a doctoral program, when I was readily diverted from that goal by a man whose offer was more appealing than the prospect of tracing the philosophical indebtedness of Percy Bysshe Shelley to his father-in-law, William Godwin. (The philosophical indebtedness of Mary Shelley to her mother, Mary Wollstonecraft, wasn't even mentioned; but remember, this was a long time ago.)

As was customary, my husband earned our living, children were born to us, and I stayed at home taking care of their needs and their father's; and typed *his* doctoral thesis. It was a good way of life and the division of labor was unremarkable. Most of us who married during those fertile decades were similarly distracted from careers barely underway or perhaps only imagined; caught up, even bogged down, in domesticity. We were the mothers of all those babies in the boom years. In a group I sat down with recently, a few old friends at a lunch table, the number of our children ranged from five to eight. And two among us had foster-parented on a grand scale.

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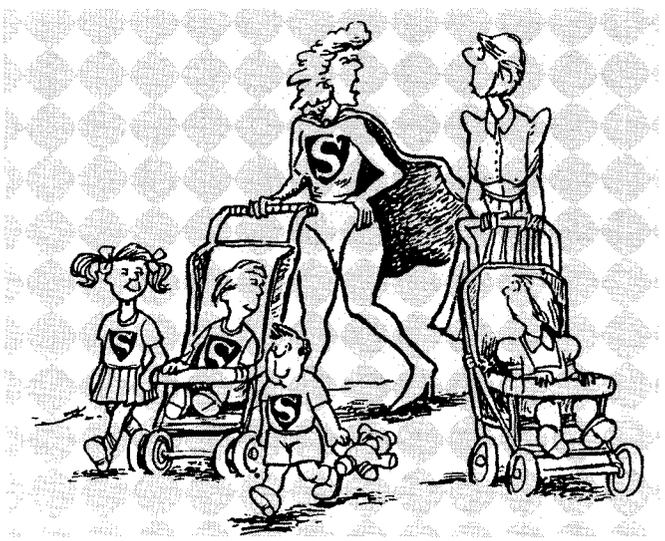
I do not presume to write a revisionist piece on the way life was in the 1950s and 1960s. I cannot deny the realities of our lives, the cheerful myths of domestic tranquillity we are presumed to have embodied; for we did acquiesce in the spirit and practices of our times, with apparent good will and with the indisputable evidence of all those children. I would just like to add a postscriptive note, an answer to the question: What came next in the lives of some of the mothers in those burgeoning families when they ran out of children?

In the dead days of our recall, we were told about "the duties of one's state of life," for women with children a curiously static condition, apparently, for there was no mention of growing out of it. Even today, in a document being circulated among admirers and detractors, the American bishops seem to assume the nurturant and custodial aspects of motherhood as a given that does not go away. Their mother-most-admirable combines the qualities of mama mia, mother machree, and—I don't know how to say it in Polish. They ask for her "the right to be home and to have allowances that permit her to devote herself exclusively to home tasks." Even assuming this gender-based division of familial labor, one must ask, for how long?

Jean Bethke Elshtain, some time back in a *Commonweal* symposium (June 17, 1988) on the first draft of the bishops' pastoral letter on women, suggested that the bishops "resist the temptation to define the family as a male wage earner and a mother who stays at home to care for the children," a construct Elshtain described as "a bourgeois norm of recent vintage and not essential to the moral vision of the family." She urged them toward the idea of "*caritas*, the principle which makes possible the flourishing of individual personality and sustains the dignity of each person in the family." Thanks, Jean.

Even those of us who married into a bourgeois construct could hear the great Cardinal Suenens tell us, more than twenty-five years ago, in a book directed primarily to the nun in the world, that mothers of families, blessed with a longer life and a better education than their own mothers, would have, when their children were grown, "another life, as it were," in which to move beyond the confines of home, doing work of value to the world outside. "Making the family secure," he reminds us, "is not a matter of adding appurtenances for its comfort, but of making it a place from which all members can move out into the great highways of the world." Suenens's optimistic and, at the time, revolutionary encouragement, did not take into account death and other domestic disasters. For home is not only a snug harbor of a cheerful caravan; home is also about rancorous breaking apart and leavetaking; abandonment, starting over.



"Just because I can leap over tall buildings in a single bound, doesn't mean I can find a babysitter when I need one."

For one reason or several, among my friends, this moving out into the great highways of the world was tardy and timorous by today's standards, and we were likely to stay in the lane that hugs the shoulder, with easy access to the exit ramps. We did, however, eventually return to old careers or prepare ourselves for new ones, looking for ways to be socially responsible and economically contributive. We may now watch with envy, chagrin, or distaste, young women running for trains and buses, having carried their babies to the local sitter-service. (Why is it always the mother who comes hurrying down the block, baby and briefcase in hand?) We wonder about the factors that determine their precipitous return to the places where money is made. Financial need, real or imagined; ambition; devotion to a demanding career; the dream house with the nightmare mortgage; the marriage that has failed to realize its bright promise? For whatever reasons, they are on their way. Congresswoman Pat Schroeder (D-Colo.) assures us, apparently with admiration, "They have their babies and get right back to work."

We moved more slowly. But here we are now, jobholders and careerists of sorts. Those of us who went back to college were, according to the counselors who encouraged us, bright and eager, humble and appreciative. As someone said, and I know exactly who it was, "The women who returned to college in the 1960s and 1970s were not in a mood to burn down the campus; they just wanted to find a parking place within a mile of it" (Katharine Byrne, "Repentant Dropouts," *America*, May 5, 1970). Up betimes, on the days when classes met, preparing for the long hours ahead; throwing in a load of whites; scraping carrots for a slow-cooking stew to be presented with pride at dinner-time; and cleaning-up after, more likely than not, after the prideful presentation. Working their second shift, as Hochschild and Machung call it in their book of the same name. On the wall hung a fake-tapestry testimonial that said, "This is Nora's Kitchen," and no one challenged Nora's place in it. A refrigerator magnet reminded her, "Behind every successful woman there is a huge pile of laundry."

Back in the work-world, my contemporaries have operated in the manner characteristic of those on the mommy track: seeking wholehearted commitments but part-time involvement. Among them are the assistant to the manager; the adjunct member of the faculty (in the middle of the night I thought of a great definition: "adjunct: easy to add and readily junked"); the three-day-a-week family therapist; the author of occasional essays;

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the lawyer who never made it to the top of the letterhead. Beyond such flexible-time work, they have volunteered in all the motherly nurturant fields. So be it. Their daughters are likely to be more serious about out-of-the-house or other-than-home involvements. And have fewer children, or none.

Our daughters are farther removed in time or by temperament from the either/or dichotomies we inherited; those fictive scripts, Heilbrun calls them, written by men, to which women's lives were expected to conform. The scenarios designed by men prescribed wife-and-motherhood, except for those called to the religious life. In the case of writers or artists, the choice was books or babies, not both. Ursula LeGuin, mother, science fiction writer, and essayist, points out that a persuasive case can be made against the either/or argument. Does it not seem strange that the argument should need to be advanced? Has any man been asked to choose between being a writer or an artist and having a baby? LeGuin talks about women who have literally written at the edges of dining-room tables, where the milk gets spilled and relationships curdle, surrounded by children, distracted by their demands, as meals are served and milk mopped up. Harriet Beecher Stowe is her sturdy example: caring for six children while she wrote one of the most important books of her century. LeGuin argues the advantage of motherhood for a woman artist, as well, in immediate and inescapable contact with the sources of life, death, growth, love, citing the German Expressionist painter, Käthe Kollwitz, who, after yearning for the day when her boys would be off to school, found that her inspiration lagged in their absence, and that she had worked better when she had to fight for time to paint, after their needs were attended to. LeGuin believes that an artist's work may profit from the tensions and opportunities of a busy family life.

Although LeGuin applies her thesis to women who are creative artists, is it not likely that even a woman in dress sales, a librarian, French instructor, seller of airline tickets, administrator in a home for the aged, in her time out for children has acquired an outlook and empathy that help her to do a better job? May there be something of value in having been distracted from a single career goal? Some virtue in the necessities? Weaving experience into art or merely transcending the quotidian concerns, experiencing in them some pleasures that compensate for a lesser place in the world outside the domestic curtilage? (And if so, one of my children wants to know, why should not the experience be generously extended to the children's father?)

The diverting of attention, the distraction, which each child represents, has also a price, of course. The price is lower income. A women's distractibility makes possible management's or the academy's system of part-time work. No paid vacation, advancement, health insurance, or pension. The same exploitative system that McDonald's uses on high school students or pensioners prevails in colleges where untenured serfs called adjunct faculty, many of them mommies, competent enough but not possessing the highest credentials, carry on that aspect of academic life called teaching. My friend Janice is one of these, a women given to balanced sentences: "While it is true that they don't let you march in academic processions," she says, "they also don't make you serve on academic committees."

Seeking a balance, how have the old mommy-trackers fared? On balance, adding up rewards of home and marketplace, working for love or money, they do not think they have fared badly. An absent member of our group, unable to take time out for a lunch date, says that none of us "ever got anywhere." It depends, of course, on where you want to go, and when, and how lucky you are.

Talking about ourselves is almost endlessly diverting; nevertheless, our own advances and retreats are well known to one another. And so we end up talking about other women.

● Was it fifty years ago that Ellen, a newly certified young lawyer, "gave it all up," as we used to say, to marry an ambitious university administrator? She lived the life of helpmate and hostess, keeping children quietly and productively occupied while her husband moved onward and upward in the arts and sciences. On a number of campuses across the country she was famous for flaky, fragile dinner rolls. At fifty-five, however, she established a law practice concerned with the legal rights of women and children. Now a lot older than that, she has set up shop in the basement of her condominium, doing mostly real estate closings. She also executes and delivers "wills on wheels" for other old parties unable to get to her office.

● Laura is a publicist for a nearby university. She has converted a leftover bedroom—at last, that room of one's own—into a place for her desk, word processor, telephone, and file cabinets. Currently, however, she is sharing space with an Olympic-size tropical fish tank, its accessories, and a golden retriever dropped off temporarily by one of her adult children. One of us has reminded her that *Uncle Tom's Cabin* was written on the edge of a dining-room table, but she is not amused.

● Lenore gives four days a week to her late-in-life career, a vocation to which she felt called when her last child left home. She makes her rounds at two local hospitals, offering solace and prayers for sick and dying patients. She is an Episcopal priest. (A mommy-track vocation to the priesthood? Spare us, O Lord! But why not?) When she gets home, she may be tired and discouraged by the draining demands of her calling. It is possible that her elderly husband will have a warm, comforting meal ready for her. We wonder. Is it likely? The most generous among us thinks it is possible.

● Bonnie quit school when she was nineteen and had run out of money. She found a job on a small-town paper, reporting what the bride's mother wore and who grew the largest pumpkin in the county. The photographer she married was a widower with three young children; these she cared for, and two more, confining her writing to an occasional column done after-hours. But she did earn two degrees after her youngest child was fourteen. For twenty years she tried to teach college freshmen how to read and write. Now she encourages three groups at a community center, her students ranging in age from seventy-five to ninety-one. She is putting together a book of their reminiscences, pieces which an exquisite memorist—M.F.K. Fisher comes to mind—would dismiss as the "homegrown thoughts of elderly ladies," but valuable nonetheless to its contributors. And to their mentor. Bonnie admits that her own career has not been illustrious.

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Perhaps Fred could have been more willing to share the wealth of pain and pleasure all those children afforded her? Perhaps.

What's left to say? These observations are fragmentary, anecdotal, lacking in verification. As we prepared to leave the convivial gathering, one of us found in her purse, along with the grandchildren's pictures she offered for admiration, a clipping from a newspaper on the mommy track. The part we liked were the conclusions of the DuPont researchers. Analyzing responses to test items, applications, and personnel files of thousands of workers at every rung of the corporate ladder, they had found that today, younger men, as well as women, can be divided into those who may be moved like chessboard pieces, worked long billable hours, relocated at company need or whim, and those who cannot be so manipulated. Increasingly, they noted, men as well as women are refusing promotions or opportunities they regard as inimical to personal or familial well-being, looking for a congenial career track—could it be gender-free?—that acknowledges values other than those of the organization.

"We have found," the report said, "that men's attitudes toward work and family questions are very quickly coming to resemble women's." Thanks, DuPont researchers, whoever you are. And if a "furor," like a trend, lasts more than a season, welcome to those whose aberrant behavior you have reported. Welcome aboard on the mommy track, a way of life presently sought-out by women who are not only prone to distractibility, but embrace its opportunities and invite your support. □

THREE VIEWS OF THE 'CRUZAN' CASE: ISSUES & RAMIFICATIONS

WHEN SHOULD THE STATE STEP ASIDE?

TERMINATING TREATMENT FOR PVS VICTIMS

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A landmark case?

The *Cruzan* case was heard by the Supreme Court on December 6, 1989. It had been made the "test" case for and against active euthanasia by the many organizations (medical, nursing, hospital and nursing home associations, citizens' groups, and churches, among others) who filed briefs as friends of the Court. The decision of the Court is expected sometime soon and is eagerly awaited.

Nancy Cruzan, a citizen of Missouri who is now thirty-two years of age, has been in a persistent vegetative state (PVS) for six years following an automobile accident. Her parents, acting as guardians and employing the principle of substituted judgment, requested the court of first instance to permit removal of her gastrostomy feeding tube to stop the artificially administered food and fluids she had been receiving in the Missouri Rehabilitation Center at Mount Vernon, Missouri. They told the court that the treatment was too burdensome, was nonbeneficial, and was merely prolonging her dying. They cited the constitutional rights of liberty, privacy, and due process, and the common law right to refuse treatment as the basis for their plea.

The court of first instance was satisfied that Nancy had verbally made an advance directive to a friend that she did not want to be treated if she were in PVS. This court gave permission for the withdrawal. The case was then appealed to the state's Supreme Court by the attorney general of Missouri, who argued that Nancy's parents had no constitutional right to decide whether their daughter should be permitted to die, and that the state could not be required to participate in state-assisted suicide. The Missouri Supreme Court, by a four to three decision, reversed the lower court, indicating that the statement made by Nancy to a friend that she would never want to live as a "vegetable" was not a clear and convincing advance directive. The court also stated that the nature of the treatment was not burdensome to her. The Cruzan family then appealed to the U.S. Supreme Court, which last July agreed to hear the case.

The evidence submitted indicated that Cruzan is in PVS. In PVS the cerebral cortex is destroyed; the brain stem remains alive. Such a patient has lost the biological substrate for, among other things, all sensory perception and all motor movement. Such a patient will never feel pain, thirst, hunger, or satiety. Such a patient will never be able to perform, among others, those voluntary motor movements involved in swallowing.

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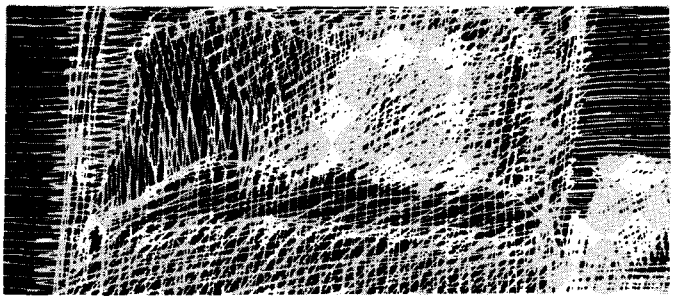
Such a patient is clearly alive and continues to breathe and have a heartbeat.

The administration of food and fluid artificially is a medical technological treatment. If this medical treatment—which bypasses the functional physiological defect caused by the brain damage—is maintained, the patient may live for a long time, given proper skin care and proper monitoring of the mechanical feeding process. Utilizing such medical treatment requires the same kind of medical technological expertise of physicians, nurses, and dietitians as is required in utilizing a respirator for treatment of respiratory failure or employing a renal dialysis machine for treatment of kidney failure. This medical treatment, however, is ineffective, for it cannot cause dead brain cells to regenerate; it will merely sustain biological life and prolong the patient's dying. Such treatment is considered by many physicians and medical ethicists to be extraordinary.

The court of first instance ruled Cruzan had made a clear verbal advance directive not to accept treatment that is very burdensome and not beneficial. The Missouri Supreme Court did not accept this evidence. Its decision also pointed out that under Missouri state law a guardian is not authorized to order termination of medical treatment. It suggested that such decisions should be relegated to a more neutral party, such as a probate court. Missouri's Supreme Court, absent clear and convincing evidence that Cruzan would want her food and fluids removed, and absent evidence that continued medical treatment was painful and thus burdensome to her, would not approve an action which would surely cause her death. The court also stated that Missouri has a statutory interest in preserving life without regard to its quality.

The American Medical Association, the American Hospital Association, and the S.S.M. Health Care System, a Catholic health-care system sponsored by the Franciscan Sisters of Mercy based in St. Louis, Missouri, filed briefs not advocating either for the petitioner or the respondent, but asking the U.S. Supreme Court for legal clarification in the area of withdrawing life-sustaining medical treatments, including food and fluid administered artificially. In their briefs, they all recognized that modern sophisticated medical technology can sustain patients for many years who are irreversibly unconcious and without any hope of recovery. They also recognized that in previous times all such patients would have died, but that now they are kept alive only by the medical treatment of administering food and fluid artificially. Since governing legal principles concerning such withdrawal are still uncertain, their briefs noted that physicians must often refuse to honor such medical decisions of patients or their relatives, even though these decisions are fully consistent with principles of medical ethics.

The Prolife Activities Committee of the National Conference of Catholic Bishops also filed a brief, urging the Court to affirm the decision of the Missouri Supreme Court. The NCCB brief indicated that the inferred constitutional right to privacy found in *Roe* v. *Wade* negates a state's legitimate and lawful interest in protecting life and preventing suicide. Organizations concerned with protecting the physically and mentally handicapped filed briefs in support of the decision denying the plea of Cruzan's



parents. Their briefs warned that a reversal would create the "slippery slope," which would inevitably lead to the premature deaths of patients with Alzheimer's and other dementing diseases, advanced neurological disorders, and the like. Organizations in favor of legalizing euthanasia also filed briefs. They urged the Court to overturn the decision, citing that the inferred constitutional right to privacy does include the right to die.

The tremendous interest in this case was evidenced by the large number of lawyers observing within the bar of the Court. In addition, the visitors' galleries were crowded to capacity. During the oral arguments, keen appreciation of the sincerity and the anguish of the Cruzan family was evident in the questions posed by the justices to Mr. Colby, Nancy Cruzan's lawyer, to Mr. Presson, the assistant attorney general of Missouri who presented the state's case, and to Mr. Starr, the solicitor general of the United States, who was arguing as a friend of the Court on behalf of the state of Missouri. Their questions also made clear their deep awareness of the historical importance of this case. Seven of the nine justices asked questions.

Justice O'Connor asked Mr. Colby whether it is unconstitutional for the state to require "clear and convincing" evidence of a patient's wishes before permitting the withholding or withdrawing of life-sustaining treatment. Mr. Colby answered that Cruzan's constitutional right to liberty from unwanted state-ordered medical treatment was as strong as her constitutional right to life. Further, he said that if a patient's wishes cannot be clearly determined, then society must decide whether it will permit a state to make medical decisions. He pointed out that the Supreme Court has in previous cases always "deferred" to families to make such decisions in the best interests of their children.

Justice Kennedy asked Mr. Colby if it was unconstitutional to set up a mechanism to enable a clear determination to be made of the patient's wishes, and if such evidence couldn't be determined, to come down on the side of life. Justice Stevens asked Mr. Presson whether a Missouri judge could ever authorize the removal of life support if there were no clear and convincing evidence that the patient wanted this. Mr. Presson replied that this was possible if continued treatment caused the patient pain, or if the treatment carried too many risks and was not highly effective.

Chief Justice Rehnquist asked Mr. Presson whether Missouri law could draw a distinction between the artificial administration of food and fluids and other medical treatments. Mr. Presson

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replied that the court did not make this distinction. He said that the treatment being given Cruzan was 100 percent effective for what it was intended to accomplish, namely keeping her alive.

Solicitor General Starr argued that other state courts have required clear and convincing evidence of the wishes of the patient. He pointed out that the New York State Court of Appeals found in the *O'Connor* case that there was not this evidence, and ruled against withdrawal of food and fluid. On the other hand, he pointed out, in Massachusetts in the *Brophy* case, the Supreme Judicial Court found there was such evidence and permitted the withdrawal.

No justice questioned whether the administration of food and fluid was medical treatment. None questioned that if the artificial administration of food and fluid were withheld the proximate cause of death would be the original underlying medical condition, namely the severe brain damage sustained in the accident.

Although the Supreme Court in *Roe* v. *Wade* found an inferred but not explicit constitutional right to privacy, the Cruzans did not plead this right before the Supreme Court. They appealed to the common law and to constitutional liberty rights and due process. The questions asked by the justices indicated to this observer that the long-standing tradition of the Court never to "formulate a rule of constitutional law broader than is required by the precise facts to which it is applied" [*Liverpool, New York and Philadelphia S.S. Company* v. *Commissioner of Immigration*, 113 U.S. 33, 39 (1885)] will be followed in this case. I believe that the Court will, in considering procedural issues, decline to consider the existence of asserted liberty interests. The procedural issue is whether there is sufficient evidence ("clear and convincing," as Justice O'Connor stated) of Nancy Cruzan's advance directive.

In reviewing the trial evidence, it appears that the Missouri Supreme Court reached a correct conclusion—namely, that the evidence for advance directives was not "clear and convincing." In the absence of this evidence, the Supreme Court of the United States would not have to make a decision regarding the existence of the asserted liberty interests for which Mr. Colby argued.

One can sympathize with the sincere and sad statement that Mrs. Cruzan made after the hearing, to the effect that her daughter's plight is being overshadowed by larger issues, the resolution of which will not really touch upon Nancy's immediate problems. The many groups who filed briefs as friends of the Court, I believe, may well all be disappointed with the decision that is handed down. Probably none will get their hoped-for results. The health-care organizations will not get their hoped-for legalization of withdrawing the artificial administration of food and fluids from the individuals in PVS. The bishops will not get a clear denial of the constitutional right of privacy. The organizations representing physically and mentally handicapped individuals will not get an absolute assurance that the slippery slope they fear has been eliminated. The organizations advocating euthanasia will not get their hoped-for legalization of assisted suicide.

I believe the *Cruzan* case will not turn out to be the landmark case that we all expected it to be. JOHN COLLINS HARVEY

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The bishops misstep

After years of calculated avoidance, the United States Supreme Court's hearing of the case of Nancy Cruzan marked the first time that it has considered a case involving the decision to forego life-sustaining medical treatment for an incompetent patient. Of central concern is whether the Supreme Court will explicitly establish the right to refuse medical treatment as a *separate* fundamental right or decline to redefine the category of rights judged to be fundamental and decide the controversy on narrower common law grounds.

For the Missouri Supreme Court, the *Cruzan* case presented one issue for resolution: "May a guardian order that all nutrition and hydration be withheld from an incompetent ward who is in a persistent vegetative state, who is neither dead ... nor terminally ill?" Numerous state courts have grappled with this question and nearly unanimously have answered affirmatively. The state's highest court did consider these precedents from other states but "found them wanting and refuse[d] to eat 'on the insane root which takes the reason prisoner.' Shakespeare, *Macbeth*, I, iii."

The Missouri Supreme Court refused even to nibble. Since the *Quinlan* decision in 1976, an increasing number of state courts have held that the federal constitutional (fundamental) right to privacy encompasses the right to refuse medical treatment, even life-sustaining medical care. It rejected the *Quinlan* analysis because "the bare statement that the right of privacy extends to treatment decisions is seldom accompanied by any reasoned analysis as to the scope of that right or its application to the refusal of life-sustaining treatment." After its own analysis of the right to privacy decisions of the U.S. Supreme Court, the Missouri high court determined that the "penumbral" right to privacy does *not* encompass the right to refuse life-sustaining medical treatment under the federal constitution.

If a right is found to be fundamental, under the developing substantive due process jurisprudence of the U.S. Supreme Court, lower courts must apply a strict standard of review in scrutinizing any state action which impairs this constitutional (fundamental) right. Because this judicial standard is so strict, the Court's finding a right to be fundamental tends to be *virtually* dispositive of whether an individual's right prevails against state action which impairs that right. Although fundamental rights can be considered virtual trumps in any constitutional analysis, nonfundamental common law rights do not enjoy this status.

Many state courts, including Missouri's, have long recognized that a patient's right to refuse medical treatment is secured by the common law right to freedom from nonconsensual invasions of bodily integrity. This right is not absolute but must be weighed against four countervailing state interests: (1) preserving life; (2) preventing suicide; (3) safeguarding the integrity of the medical profession; and (4) protecting innocent third parties. Most state courts that have faced the issue, however, have recognized that the patient's much stronger constitutional (fundamental) right to privacy usually outweighs even the most significant

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state interest in preserving life, and competent patients generally are permitted to refuse life-sustaining medical treatment.

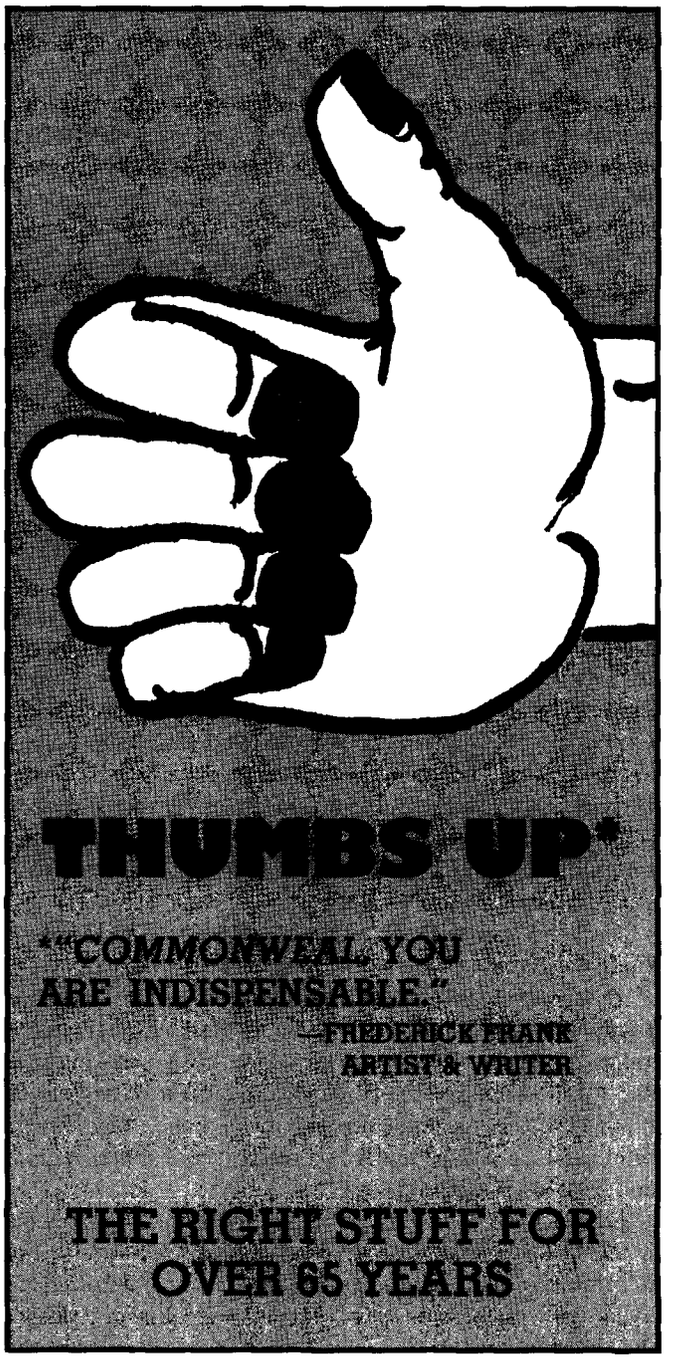
The Missouri Supreme Court was again highly critical of *Quinlan* and its progeny for "arbitrarily" discounting the state's interest in preserving life to reach a result which these courts found desirable. The Missouri Supreme Court rejected any attempt to "subtly recast the state's interest in life as an interest in the quality of life" and insisted that Missouri's interest is "an unqualified interest in life."

In seeking judicial permission to remove their daughter's gastrostomy tube, Ms. Cruzan's parents (and legal co-guardians) argued that her prognosis was "hopeless," her treatment was "invasive," and "were she able, she would refuse the continuation of tubal feeding." This litany has been enshrined in the jurisprudence of right to refuse treatment cases since *Quinlan* and has proven most successful for guardians in achieving their desired result. Contrary to contemporary judicial consensus, the Missouri Supreme Court rebuffed each of these claims.

First, the Missouri Supreme Court refused to focus on prognosis because this would inevitably raise "quality of life" considerations which the court had firmly rejected in discussing the state's interest in life. This court was not the first to lament: "The argument made here, that Nancy will not recover, is but a thinly veiled statement that her life in its present form is not worth living." To consider this in support of a decision to terminate life-sustaining care was clearly unacceptable to this court.

Second, the court perfunctorily held that "*continuation* of feeding through the tube is not heroically invasive," for the invasion occurred when the feeding tube was implanted with consent "at a time when hope remained for recovery," and now the gastrostomy tube "merely provides a conduit for the introduction of food and water." This decision to forego artificial sustenance has been, and continues to be, given special attention by the courts. Several state supreme courts have recognized that the right to refuse life-sustaining medical treatment encompasses the right to refuse artificial nutrition and hydration. Despite this emerging consensus, the Missouri Supreme Court refused "to allow medical terminology to dictate legal principle" and "to succumb to the semantic dilemma of what is treatment." For the court wrote, "common sense tells us that food and water do not treat an illness, they maintain a life." Given this predisposition to accord special significance to artificial nutrition and hydration relative to other medical procedures, the court logically concluded that artificial sustenance was not "oppressively burdensome *to Nancy* in this case."

Third, the court held that the co-guardians did not have the authority to order the withdrawal of artificial sustenance from the incompetent Ms. Cruzan. By adopting surrogate decision making procedures, many state courts have gradually extended the right to refuse life-sustaining medical treatment to include incompetent patients. Courts have developed, and continue to fine-tune, two standards to guide surrogate decision making: "substituted judgment" and "best interests." According to the President's Commission report on *Deciding to Forego Life-Sustaining Treatment* (1983), under the "substituted judgment" standard, the guardian "attempt[s] to reach the decision that the



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incapacitated person would make if he or she were able to choose." However, if there is no reliable evidence of a patient's preferences, this standard provides little or no guidance to the surrogate decision maker. Absent sufficiently clear or any trustworthy evidence of a patient's wishes, some state courts have advanced various forms of a "best interests" standard to guide the surrogate decision maker in those cases where a patient's wishes cannot be known.

The Missouri Supreme Court implicitly rejected any "best interests" standard by its silence and held, despite the trial court's factual finding to the contrary, that Ms. Cruzan's wishes expressed in a "somewhat serious conversation" were "inherently unreliable and thus insufficient to support" her parents' claim to exercise "substituted judgment" on her behalf.

The United States Catholic Conference (U.S.C.C.) in an *amicus curiae* brief filed before the U.S. Supreme Court urged the Court not to allow Nancy Cruzan "to die in the name of her own liberty," and reminded the Court of the conference's earlier judgment that "'the law should establish a strong presumption in favor of'" the provision of artificial nutrition and hydration. In so arguing, the U.S. Catholic bishops tragically condemn Nancy Cruzan to a life which has no potential for human purposes and simply prolongs her biological existence. Paralyzed by current abortion jurisprudence and captivated by an "absolutist" respect for the value of human life, the bishops have disappointingly misguided the ethical (and legal) discourse in this emotionally charged public policy debate.

The U.S.C.C. *amicus* brief argued that the Missouri Supreme Court's judgment should be affirmed. The U.S.C.C. participates in important litigation as *amicus curiae* to advocate the pastoral teachings of the Catholic church and to promote certain moral values throughout the entire public policy decision making process. Of these values, the conference maintained "respect for human life is of the highest importance." Hence, their *amicus* brief can be analyzed under two rubrics: ethical presumption and legal argumentation.

Ethical presumption. Quoting freely from several previous U.S.C.C. documents, the bishops counseled a moral obligation to continue providing Ms. Cruzan with artificial nutrition and hydration with the following argument. First, the brief posited the "inherent dignity of human life." Second, because of this obligatory concern for human life, the bishops refused to accept any view that "life itself may be categorized as useless because a person lacks various mental and physical abilities." Third, since no human life is "useless," the brief endorsed a strong legal presumption in favor of providing artificial nutrition and hydration because "food and water are necessities of life for all human beings...."

One can argue, therefore, that the preservation of life without *any* regard to the quality of *that* life *to the patient* in a particular case is the ethical presumption of the bishops' brief. Such an absolutist "sanctity of life" position has been criticized by many respectable moral theologians as inconsistent with, if not wholly contrary to, the Catholic church's tradition on the duty to preserve life. It is also unrealistic since certain "quality of life" considerations are unavoidable in contemporary medical practice.

Richard McCormick, Lisa Sowle Cahill, and Kevin O'Rourke, among other contemporary moral theologians, insist that physical existence is not an absolute value for the human person. Cahill has written that: "Because the Christian affirms the transcendence of full human personhood over sheer biological existence, life is for him never an *absolute* value, a value to be salvaged at all costs" ("A 'Natural Law' Reconsideration of Euthanasia," *Linacre Quarterly*, vol. 44:47-63, February 1977). Biological existence is not simply a value in itself, but a value as the condition for the possibility of human personal life. Therefore, biological life should be prolonged with all appropriate and reasonable means only insofar as prolongation supports the transcendence of human personal life. (In traditional Thomistic language, this would be the ability to perform "human acts.") For this reason alone, when continued life cannot offer the necessary conditions of meaningful personal existence, it may no longer constitute a good for that individual and the general moral obligation to respect life would not entail the indefinite prolongation of *that* life.

Richard McCormick and John Paris, writing in "The Catholic Tradition on the Use of Nutrition and Fluids," *America*, May 2, 1987, carefully outlined the teachings of the church from Aquinas—particularly from Domingo Soto in the sixteenth century—through the Vatican's 1980 "Declaration on Euthanasia," and concluded that "moralists have always held that no means—including food or water—can be said to be absolutely obligatory regardless of the person's status." They establish that the church's operative standard is "seen in the recent policy on 'The Rights of the Terminally Ill' issued by the Prolife Committee of the U.S. Catholic Conference: 'Laws dealing with medical treatment may have to take account of exceptional circumstances where even means of providing nourishment may be too ineffective or burdensome to be obligatory.'" Because the practice of ethical medicine prolongs "living in order to pursue the purpose of life," in those exceptional circumstances "in which the patient's condition is so debilitated that any treatment would be futile," McCormick and Paris wrote, "the withholding of nutrition and hydration is designed not to hasten the death by starvation or dehydration, but to spare the patient the prolongation of life when the patient can derive no benefit from such prolongation." Given the U.S.C.C.'s implicit rejection of this moral analysis, the conference's insistence on a "strong legal presumption" in favor of providing artificial sustenance is logical but extremely unfortunate.

Is the continuation of artificial sustenance and, therefore, the prolongation of Nancy Cruzan's life in a persistent vegetative state (PVS) ethically mandatory? The PVS patient has suffered permanent and irreversible loss of all neocortical functions, is completely unconscious, and cannot experience pain or suffering. A recent statement by the American Neurological Society (*Neurology*, 1989, 39:125-126) concluded that, from a strictly medical perspective, artificial nutrition and hydration is ineffective therapy for PVS patients. Moreover, Ronald Cranford and David Randolph Smith have

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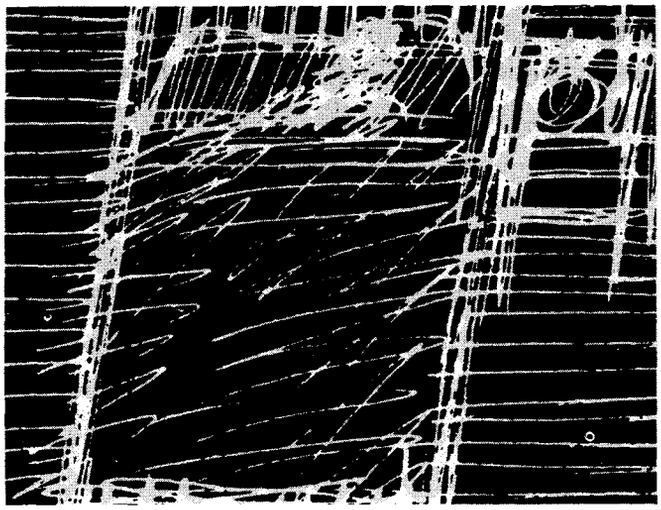

convincingly argued (in "Consciousness: The Most Critical Moral (Constitutional) Standard for Human Personhood," *American Journal of Law & Medicine*, vol. XIII, no. 2-3:233-248 [1988]) that medicine cannot promote a PVS patient's autonomy, self-determination, or best interests, cannot preserve or maintain that patient's health, and cannot even show beneficence to that patient because these are empty concepts or simply meaningless to a PVS patient. Incorporating these contemporary medical insights with those of the moral theologians discussed above, the reasonable moral (and legal) judgment would be to permit the removal of Ms. Cruzan's gastrostomy tube.

One can only wonder why the American bishops insist that Ms. Cruzan's life be prolonged indefinitely. The bishops are rightly concerned about "the recent social and legal trends regarding the withdrawal of life-sustaining care and treatment from nonterminal patients" and particularly the removal of artificial nutrition and hydration from unconscious and otherwise disabled patients. For example, the status of a severally mentally retarded child or the elderly patient with Alzheimer's disease, which is potentially threatened in any less than absolutist respect for human life ethic, are a realistic concern for the bishops. However, since that child or senior continues to celebrate her human transcendence (albeit in a limited way), the moral obligation to respect life would insist on the prolongation of her life by artificial means. Only the irreversible absence of human personal life (characterized by such properties as self-consciousness, rationality, and the capacity for interpersonal and social relationships) would allow for any decision to terminate life-sustaining medical treatment, including artificial sustenance, from incompetent patients whose wishes cannot be known.

Admittedly, this is a position of some nuance and, furthermore, attempts at subtle variation in public policy deliberations sometimes produce tragic results. But the U.S.C.C. brief has unfortunately rejected any attempt at distinction and subtlety and proposed a very rigid moral standard which does not balance a contemporary understanding of the Christian value of life with the realities of contemporary medicine.

Legal Argumentation. To advance their ethical presumptions legally, the U.S.C.C. brief presented two related arguments in support of the Missouri Supreme Court's judgment that rejected a constitutional right to refuse medical treatment. In essence, the conference argued that "the decision to terminate life is not encompassed by the constitutional right of privacy" because the "constitutionalization of the asserted right would supplant the common law and inhibit the proper balance of interests." With this fear of unbalanced jurisprudence, the bishops are obviously haunted by the development of contemporary abortion jurisprudence and fear similar consequences if the right to terminate medical treatment is given constitutional protection.

Abortion jurisprudence is clearly illustrative of unbalanced jurisprudence. Although *Roe* v. *Wade* did not intend constitutionalized abortion to be an unlimited right, subsequent abortion cases following *Roe*, as the bishops have carefully argued, "illustrate the near futility of trying to give proper balance to constitutional abortion." The futility of balancing abortion rights with the interests of spouses, parents, fathers, and the acknowledged state regulatory interest in the medical profession is well chronicled in these subsequent cases. Only in the recent *Webster* decision has the Supreme Court revitalized certain countervailing state interests. To avoid similar unbalanced jurisprudence is the conference's central concern.

In their brief, the bishops also insisted that rights which are discovered "by our history and tradition to be necessary to a free society" are the only rights protected by the Fourteenth Amendment and "the concept of complete personal autonomy is antithetical to our constitutional guarantees of ordered liberty." These arguments do not advance the brief's central concern—the prospect of unbalanced jurisprudence which would not realistically consider the state's interest in the preservation of life. While this prospect is real and the conference's fear is legitimate, its response is misguided. The bishops argued that common law properly balances "all views, concerns, and interests," including the state's own interests and interests of family members, with the patient's interest in withdrawing treatment. These numerous interests are "accorded real weight in the balance," which the bishops then translate into an almost "absolutist" respect for the value of human life, creating a virtually insurmountable legal presumption to prolong life. Under such a common law standard, the patient would rarely, if ever, overcome this presumption and the chimerical balance discovered would practically always favor the state's interest in the preservation of life. In arguing as they have, the bishops have promoted another form of unbalanced jurisprudence.

How can the U.S. Supreme Court ultimately achieve a correct balance of interests? Since the passage of the Fourteenth Amendment, the court's task, in the conference's words, "has been a continuing search for the fundamental values worthy of such constitutional protection." The right to terminate medical care is a value worthy of constitutional protection because to constitutionalize this right authentically reflects the public valuation of the interests involved. In expanding the contours of fundamentally protected interests to include this right, the Court must carefully charge the state's interest in the preservation of life with sufficient authority to avoid a replay of the abortion debacle. Clear judicial language highlighting the continued vital-

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ity of state interests and mandating state regulation of the surrogate decision making process in right-to-terminate-care cases can realistically achieve this purpose and ultimately create a balanced constitutional jurisprudence.

Patient autonomy and respect for human life must be balanced in any decision to terminate life-sustaining medical treatment. In their continuing attempts to influence public policy debates concerning issues of life and death, the American bishops must cure themselves of their shortsightedness caused by the abortion controversy. Fetal interests must be promoted unequivocally, but fetal interests are not the interests of an incompetent patient in a persistent vegetative state. Different interests should beget different public policies which can still be nurtured by the same consistent ethic of human life. As nature now demands of her, our technological society should allow Nancy Cruzan to die naturally.

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The state as parent

I have to admit that when I first heard of the Missouri Supreme Court's decision in Nancy Cruzan's case, my reaction was not a particularly "lawyerly" one. My thoughts went first to my soon-to-be-driving teenage daughter Emily. What this decision meant to me was that if Emily were severely and irreversibly injured in a car accident it would be the state of Missouri and not I who would decide what would happen to her. How could this state, whether judge or legislature, take the place of a parent who had loved and protected and known her all her life?

The court's salute to the compassion and faithfulness of the Cruzan family was no comfort. It chose to look not at the real Nancy Cruzan, whose family had kept a vigil at her bedside, but at "all the Nancy Cruzans." In the name of protecting these hypothetical and symbolic Nancy Cruzans, who certainly do exist somewhere, the majority of the Supreme Court of Missouri denied to the Cruzans the authority to make a very important decision on behalf of their child. While deciding for "all the Nancy Cruzans," this court also decided for all the parents—and spouses—in Missouri.

When the Missouri Supreme Court issued its opinions in the case of Nancy Cruzan, it became the first and only court to require the continued medical treatment of a formerly competent adult who was now in a persistent vegetative state (PVS). During the nearly fifteen years since the case of Karen Ann Quinlan thrust the choices presented by advancing medical technology into the consciousness of the public, state courts had developed a framework for analysis that attracted a wide consensus. These courts generally approached the cases involving formerly competent adults as requiring the court to discover what the particular individual would do if able to make the decision himself or herself. Sometimes these cases were not very persuasive. Many of the patients involved had not expressed any preferences concerning medical treatment. In those cases, it became customary for the courts to defer to the decision of family members if it was compatible with what was known about the patient. The Missouri Supreme Court in *Cruzan* defied this framework. But its holding could be dismissed cavalierly as an "odd decision from a strange state."

Or, it could be placed among the "hard" cases because it involved the discontinuation of nutrition and hydration for a person who was not terminally ill. While every other court examining the issue had concluded that such treatment should be approached in the same fashion as any other medical treatment, several state legislatures, including Missouri's, had specifically excluded medically provided nutrition and hydration from the medical treatments that could be refused through a document executed by a person prior to becoming incapacitated. The major medical professional associations, including the American Medical Association and the American Academy of Neurology, had adopted the same position as had the courts, concluding that it was ethical for physicians to withdraw nutrition for patients suffering irreversible conditions such as PVS. Ethicists, including many from the Catholic faith, had reasoned that there was no moral compulsion to accept medically provided nutrition in such circumstances. Still, many disagreed and there remained a degree of discomfort with withdrawal of nutrition and hydration that didn't exist with medical interventions such as ventilators, chemotherapy, hemodialysis, or surgeries such as amputations.

The Missouri Supreme Court did not clearly confine its decision in *Cruzan* to the withdrawal of medically provided nutrition. Drawing a line between medically provided nutrition and other medically provided sustenance, such as oxygen provided by a ventilator, is difficult. If withdrawing medically provided nutrition is death by starvation, then withdrawing the ventilator is death by suffocation. There are strong advocates on each side of this issue within various traditions, including the Catholic tradition. The *Cruzan* case, involving the withdrawal of nutrition, thus falls within the area of least consensus.

But the *Cruzan* case clearly involves more, as the decision by the U.S. Supreme Court to accept the case for review indicates. The fact that the Court announced that it had accepted this case on the same day that it announced its decision in the abortion case (*Webster* v. *Reproductive Health Services*) only increased speculation over the justices' strategy in selecting it.

Of course, the Supreme Court will *not* be deciding what *ought* to be done for Nancy Cruzan. Rather, the Court will be deciding whether the law of Missouri, as identified by the Missouri Supreme Court, is unconstitutional. A lot will depend, then, on how the U.S. Supreme Court describes what the Missouri Supreme Court did. Surprisingly enough, there are a few choices here.

The bottom line of the Missouri Supreme Court's majority opinion is quite clear—neither Nancy Cruzan herself nor her family has any legal authority under Missouri law to refuse continued medical treatment. She must continue, as a matter of legal compulsion, to receive medical treatment, at least medically provided nutrition. The major justifications for the Missouri

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court's conclusion are the gravity of the state's interest in the preservation of life; their skepticism that any right to refuse or consent to medical treatment would survive a person's incompetency; and the absence of clear and convincing evidence of Nancy Cruzan's own decision concerning medical treatment.

The Missouri Supreme Court clearly held that the state of Missouri had an interest in life that was unique among the states. The court relied on Missouri's abortion statute, which survived constitutional challenge in *Webster*, and its living will statute as evidence of an intense interest in the "sanctity" of life, which it defined as prolongation of life. The court also held that the state's interest in life outweighed Nancy Cruzan's right to refuse medical treatment, if she in fact had such a right, because the continued treatment caused no burden to her. The court concluded that Nancy Cruzan herself bore no burden because the treatment caused her no pain.

The court repeatedly described its belief that any right that a competent person has to control his or her own medical treatment ends when he or she loses the physical or mental capacity to make his or her own decisions. Since the incompetent patient had no right to refuse treatment herself, that right could not be delegated to her family "absent the most rigid formalities," if at all.

Rather than decide squarely on that basis, however, the Missouri Supreme Court concluded that Nancy Cruzan had left no clear and convincing evidence of her own desires concerning medical treatment in the event of a catastrophe such as the one in which she now finds herself. The court viewed her conversations with her family and friends as too informal to bear any weight in the decision now confronting the state of Missouri.

What the Cruzan case really does, if taken in its entirety, is to appropriate for the state the entire responsibility of deciding the course of medical treatment for an incompetent person like Nancy Cruzan. It completely eliminates any role for the family: as guardians, according to the opinion, they are acting merely as agents for the state of Missouri. It eliminates any concern for what this individual would have desired unless that desire is expressed in the most rigid formalities. It gives to the state the sole authority for weighing the benefits and burdens of a particular medical treatment and further asserts that, for the state of Missouri, the prolongation of life will be the primary value unless achieving that goal is too painful physically.

Still, the United States Supreme Court could read *Cruzan* v. *Harmon* as a case in which the state of Missouri simply requires that medical treatment must be administered to any person who is no longer capable of making his or her own decisions, unless there is clear and convincing evidence that that person would have chosen to refuse that particular treatment. Speculation over what the U.S. Supreme Court will do in any case is hazardous. The Court includes relatively new justices who are developing their own jurisprudence and making their mark on the law of the Constitution. If the question framed by the Court is whether Missouri's requirement of maintaining treatment is constitutional, I would guess that the majority of the justices will say that it is.

In many ways, this is the least offensive course because it strikes a middle ground. It does recognize that there is some constitutional protection for refusal of medical treatment and so does not compel medical treatment in all cases. It does allow individuals to exempt themselves from the state's requirement that they accept medical treatment, if the individual plans well enough in advance. It appears to establish merely procedural protections for vulnerable persons. Furthermore, approval of this approach of itself would not require other states to establish such rules. State courts and legislatures could choose other approaches. The question of what ought to be done would remain the prerogative of the states.

I approach the question of what ought to be done from presumptions that are quite different from those implicit in the opinion of the Missouri Supreme Court. It is from these presumptions that I would criticize a requirement that treatment is to be provided unless there is clear and convincing evidence of the person's choice, especially if that standard implies mandatory judicial process.

First, I do not begin with the presumption that the very availability of medical treatment creates a moral obligation to accept such treatment. Rather, the decision to undergo or refuse treatment must involve weighing the benefits and burdens of that treatment in particular circumstances. There is a surprising uniformity of consent or refusal concerning some medical treatments; for example, most people consent to blood transfusions in life-threatening situations and most at least say they would refuse life support if they were in PVS. But for most medical treatment decisions, the weighing of benefits and burdens is quite personal. While one now-incompetent individual may have firmly believed and practiced a faith that holds a vision of an everlasting life after death, another may have equally firmly and devotedly believed that the breath of life on earth is the ultimate value of human life. Allowing the decision to be made on an individual basis and taking account of the individual's values and life history is most true to the ethical nature of the medical treatment decision.

Second, most people expect that their spouses or adult children will be in charge of any medical treatment decisions that must be made without their own participation. The custom of the medical profession to confer with and seek the consent of the spouse or the parent or the adult children of their incompetent patients reflects this expectation. The expectation that the family will make these decisions is grounded in trust and intimacy. It is also one that recognizes the importance of having someone that can engage the physicians in explaining the risks and benefits of recommended treatments when the very specific and very important facts of the particular situation are known.

One supposed advantage of the clear and convincing evidence approach is that it would force people to confront medical treatment decisions while still capable of doing so. Perhaps. But if you are not a nurse or a physician or otherwise familiar with the great variety of medical treatments that are now available or will be available in the near future for a full range of illnesses or conditions that might rob you of your ability to make your own decisions, how will you leave clear and convincing evidence of your choice? Imagine trying to write out instructions that

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cover all the bases in a fashion that cannot be misinterpreted. The clear and convincing evidence standard reduces the process of medical treatment decision making to a set of directions and the family to tape recorders.

Who will be authorized to apply this standard? If a court is the only authorized agent of the state, then a court must be used for every case. One need only remember the Linares tragedy in Chicago last year—when a father took his comatose child off a respirator holding the nursing staff at bay with a gun—to see the unworkability of mandated judicial proceedings. Would the Linares child have been better protected by the court? Would the court have reached a different decision? If not, what is the purpose of mandating a judicial process?

In the aftermath of *Cruzan*, it is likely that the various states will have wide latitude in regulating medical treatment decision making. My expectation is that the legal system in this context will honor the medical ethical principle—first, do no harm. The law should not deny the expectations of the vast majority of citizens who believe that their spouses or parents or children are the persons who, knowing them best, should make these important and intimate decisions. Nor should the law reject so completely the tradition and custom of health-care providers in consulting with these natural surrogates. Rather, the legal system should strive to be in harmony with these expectations by giving legal authority to documents appointing health-care proxies. Of course, not all families are wonderful and not all decisions are correct. There will need to be some protection developed.

No legal procedure will resolve all the issues. Conflicts over the goals and limitations of medical treatment will remain. But in a case such as that of the Cruzans, where the family was examined under a microscope by the trial court and the Missouri Supreme Court and found to be a "loving family" and where the courts found that the Cruzans' decision was supported by widely accepted medical principles, by ethical reasoning, and by their daughter's own statements, the state's order of medical treatment simply reduces itself to the assertion that the state knows best.

SANDRA H. JOHNSON

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STAGE

VINTAGE PRODUCTION

GALATI'S 'GRAPES OF WRATH'

The Grapes of Wrath, Frank Galati's adaptation of the John Steinbeck novel, is three shows in one: a theatrical piece, a gathering of naturalistic vignettes, and, implicitly at least, an ideational statement. They do not always mesh, but individual moments have great effect. The work as a whole is one of the most impressive pieces on the New York stage, an unusual work to see on Broadway these days. A creation of Steppenwolf, using both company members and outsiders signed on for the occasion, it has come to New York by way of Chicago, California, and London.

Commenting on John Ford's 1940 film version of the novel, Galati told a *New York Times* interviewer (March 18, 1990), "Ford brought a rich visual poetry to the story. I can't re-create that on stage. For me, the language of the book is central and the spectacle secondary." It is true that he cannot approximate Gregg Toland's photography—Henry Fonda's Tom Joad moving distantly across the landscape, the Joads silhouetted against the sky above a devastated farm—but spectacle is not quite as unimportant as the quotation suggests. The action takes place on an almost empty stage; props are minimal and when the stage floor opens to provide a river with real water or a fire to cook the sidemeat there is no hint of verisimilitude. When the trap becomes a grave for Ophelia in a production of *Hamlet*, it is a device that can be forgotten if the gravedigger and the Hamlet are skillful enough. Here, even though scenes are played in the river and at the campfire, the machinery has its own statement to make. Similarly, the realistic truck that carries the Joads and their belongings is manipulated so that it always seems to be moving into a scene, a playing area, and not to the West. Looking down on the stage from the mezzanine where I sat—which may be the best place from which to view the work—one sees patterns of movement which may have thematic point (individuals becoming a group and then pulling apart again) but which seem more important as theatrical moments. Unable to emulate Ford and Toland's conscious art of photography to suggest real life, Galati has embraced the mechanics of his staging. At one level, *The Grapes of Wrath* is about making a play of Steinbeck's novel.

On another, it is the story of the Joads. Galati's comment on language is somewhat misleading insofar as it separates the play from the film. Nunnally Johnson's screenplay, like Galati's adaptation, takes most of the speeches directly from Steinbeck. Transferred from the novel to either medium, *The Grapes of Wrath* loses the larger sense of the migration West, the vast gathering of the disinherited, the sense of history in the making that Steinbeck tried to get with the interstitial non-Joad chapters. These largely disappear in both the film and the play, although Galati keeps the section on the used-car sharks by turning it into a musical number; yet, I doubt that the venom in the sequence would be obvious to anyone who did not know the Steinbeck original.

The focus throughout is on the family. Galati has chosen to dramatize the predictable scenes—the departure, the burial of Grampa, the revelation of Granma's death, the first glimpse of California, the fight in the Hooverville, the dance in the government camp, the killing of the preacher and Tom's retaliation, Tom's flight, the flood at the end. The film used some of the best character actors in Hollywood, most of them playing the choicest roles of their careers—Jane Darwell, John Carradine, John Qualen, Russell Simpson—and Toland's camera marvelously filled the screen with their faces. With no close-up camera to underline the emotional force of his scenes, Galati depends on the Steppenwolf company's ensemble playing which surrounds and emphasizes the very strong individual performances—particularly those of Lois Smith and Robert Breuler as Ma and Pa

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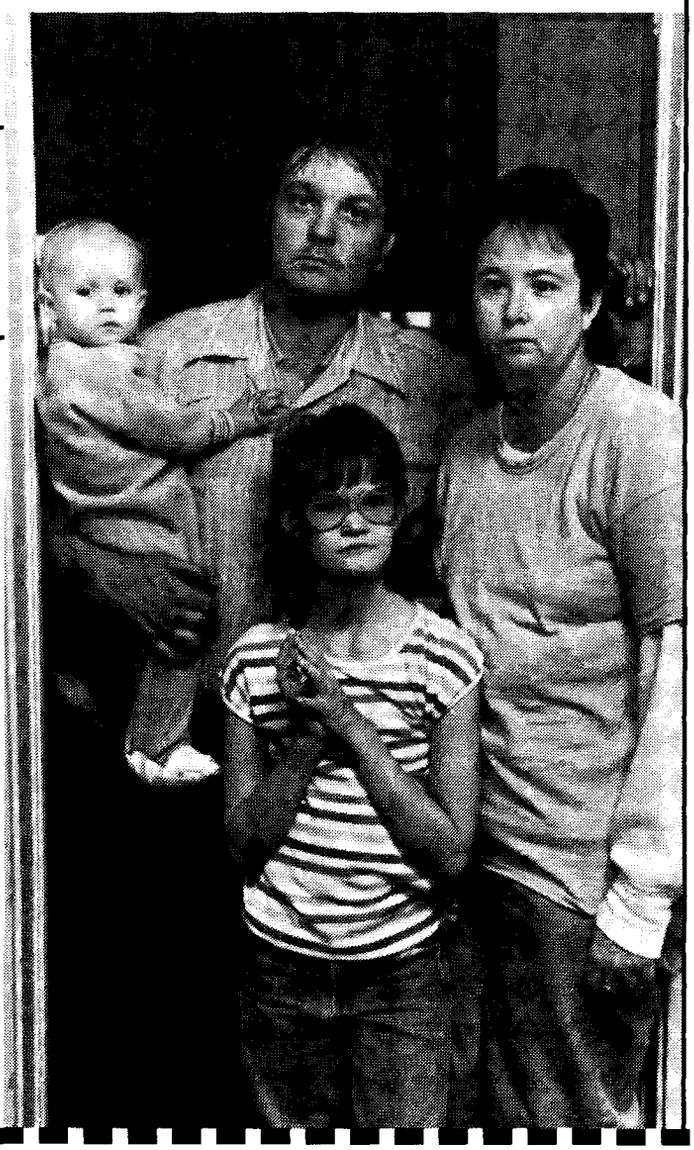

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Joad, Gary Sinise as Tom, Terry Kinney as Jim Casey, the preacher. If Marianne Moore will forgive me, these are real Joads in imaginary gardens.

The final scene of the play, like the final scene of the novel, shows Rose of Sharon, having lost her baby, baring her breast to feed a starving man. Since she was the most self-preoccupied of all the Joads, her act, for Steinbeck, was an image of the movement from the individual to the community which exists in the novel primarily in the words of Casey and Tom's farewell speech to his mother. Galati uses Tom's speech, too, and Ma's famous speech ("We're the people—we go on") which was plucked from the interior of the novel to give a powerful populist final note to the film; Galati moves it back to its original position and Lois Smith reads it almost as a throwaway, demoting Ma from symbol to character again. For Steinbeck, there are two main political statements—the way the big farmers (the capitalists) profit by the misery of others, and the need to organize to fight them. These elements are both in the play, but there is another point—shown in the novel primarily through dialogue—that explains the particular relevance of the work today. "It tells us that buried in our success is a deep failure," Galati said in the *Times*. "Steinbeck was expressing a hope that human generosity would rescue these homeless and dispossessed people." Perhaps, but for Steinbeck individual generosity was not enough. What was needed was a recognition of oneself within those the system has discarded. He showed this primarily through its absence, through the sense of otherness that allowed men whose own existence was marginal to separate themselves from the primary victims, to label them Okies, see them as dirty and lazy, something less than human. Insofar as the play embodies that attitude, which it does to some extent, it speaks to us as we use otherness to steel ourselves when we step around people sleeping on the streets and in stations, when we quicken our steps and lower our eyes not to see the beggar holding out his or her cup.

GERALD WEALES

Note: Mac Wellman's *Crowbar,* reviewed in the April 6 *Commonweal* and originally slated for a short run, has now been scheduled for an extended engagement at the Victory Theatre.

SCREEN

WHAT'S LEFT OF DESIRE?

'PRETTY WOMAN' & 'TOO BEAUTIFUL'

Director Garry Marshall's popular new film, *Pretty Woman*, takes its title from Roy Orbison's wonderful rock 'n' roll standard. Orbison, with his goofy black eyeglasses, pasty complexion, and putty-like features, was the homeliest of rock stars. But his lilting tenor had an unusual melancholy purity, and for anyone who came of age during the 1960s and 1970s, "Pretty Woman" was canonical: it defined the delirious promise of romance, the magic serendipity of sexual attraction. Orbison growls and coos his way through the song's plaintive lyrics. "Mercy!" he exclaims, awed by the woman he sees on the street. "Pretty Woman" is about being smitten by the unpredictable power of beauty—about being struck dumb by desire. "Pretty woman," Orbison sings, "don't walk on by ... don't make me cry. Pretty woman, give your smile to me."

It's a venerable theme. Andrew Marvell gave it a memorable metaphysical twist: "Had we but World enough and Time, This coyness Lady were no crime ... The Grave's a fine and private place, But none I think do there embrace."

What Marshall does to Orbison's song in this movie is a damnable sin. Nothing—least of all a smile—is given away for free. Julia Roberts (*Steel Magnolias*) plays a young prostitute named Vivian. She and her pal (Laura San Giacomo)—who sleeps with a teddy bear when not otherwise employed—prowl the street in front of Hollywood's Grauman's Chinese Theater. On the job, Vivian dresses in a raggedy halter top tied with a metal ring to a blue vinyl miniskirt. Shiny black leather boots complete her novice's outfit. She's a traffic stopper.

"We both screw people for money," Edward (Richard Gere), an impeccably tailored corporate raider, tells Vivian after he picks her up. The simplistic parallel between prostitution and greedy stock manipulators is revisited endlessly. But both Vivian and Edward are whores with hearts of gold, we are told.

Pygmalion and Cinderella make up the rest of this contemporary fable. Edward, the imperious businessman, hires our tarnished heroine for a week's work, and installs her in the penthouse of the lasciviously appointed Wilshire Beverly Hilton. Given her infectious childlike enthusiasms, she is soon the favorite of management and bellhops alike. Will Vivian's newly acquired trousseau turn to rags and the limo back into a pumpkin at the end of the week? Or will she continue to jet off to San Francisco for the opera and toot on over to the polo club for cocktails and vicious chitchat?

Of course Vivian eventually wins a place in Edward's small and stony heart. They've both had miserable childhoods, or so the pillow talk informs us. *Pretty Woman* is a story of unself-conscious vulgarity that pretends to be a lesson in the redemptive power of love. Like most contemporary Hollywood romances, its sexual imagination is perverted by an epicurean devotion to the power of money. "Sex," as Malcolm Muggeridge has observed, "is the mysticism of materialism." And in *Pretty Woman* (better titled *Pretty Money*), that mysticism is called upon to effect all manner of alchemies. Sex alone, however, cannot turn sanitized pandering into human emotion or leaden wit into gold.

Worse, Marshall uses Orbison's song not to express the power and mystery of human longing or sexual attraction, but as testament to the higher eroticism of credit cards and social status. Having previously been turned away from Beverly Hills' fancy shops because of her slatternly appearance, Vivian returns accompanied by her corporate knight. To the beat of "Pretty Woman," an orgy of purchasing follows. Vivian literally buys her salvation, shedding the rags of her past and being invested in the transfiguring garments only money can buy.

Between all the conspicuous consuming and conspicuously glossy sex, nothing as crudely mortal as physical love or even

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a little honest lust ever intrudes in *Pretty Woman*. Only one sin exists in Edward and Vivian's world: being poor. Actually, not being filthy rich. Money is the heat that excites their blood.

Sex, as everyone knows, is better in France. Well, if *Too Beautiful for You* is any indication, at least it remains recognizably human there. Gerard Depardieu stars in this very European story about a man who abandons his exquisite wife for a rather plain and somewhat chunky mistress. Depardieu, who has wielded his imposing bulk to good effect in *Martin Guerre* and other wonderful movies, has flying buttresses for shoulders and the face of a gargoyle. He's a cathedral presence, with all kinds of dark corners as well as unexpected felicities.

In *Too Beautiful for You*, his small, furtive eyes peek out around his formidable Gallic proboscis like a kid sizing up a candy counter. This is, especially at the beginning, a very funny movie. Director Bertrand Blier (*Get Out Your Handkerchiefs*), plays mischievously with fantasy and an elliptical narrative style. As Depardieu eyes his prospective mistress, we are transported forward and back in time and in and out of his paranoid comic imaginings. This is especially effective in capturing the range of Depardieu's emotions during a dinner party with his wife and their friends. Blier first teases us by juxtaposing various spoken and unspoken communications. Later, forbidden truths are improbably voiced. Or are they? Depardieu is a wonder to behold as he reacts to his wife's pretentious musings, or to his son's sudden and suspicious interest in the extravagantly romantic music of Schubert.

Josiane Balasko is like a pure, translucent piece of Steuben glass as Depardieu's beautiful wife. But she is also icy and somehow terribly fragile and pathetic. Carole Bouquet makes an even deeper impression as the frankly carnal mistress, a woman who allows her life to take shape around her passions. After her first assignation with her new lover, she comically imagines that every man she passes is an importuning admirer. "I've just made love for three hours," she confides to a bewildered stranger. Sexual exhilaration has turned the world upside down.

Why would a man risk the love of a "perfect" wife in a questionable dalliance? *Too Beautiful for You* gives several piquant answers. "She's like my sister, the one I never had," Depardieu tells his uncomprehending spouse. Or, "A man wants to live several lives, but he can't. He only has one, and it's short." To a man who questions his imprudent behavior, Depardieu says of his wife's physical perfection, "What's left to desire?" But the best answer he gives, in what is finally an overly long and too self-conscious movie, is one that wisely affirms the contingency and grace of sex and of life itself. "The dumb things in life are the best," he confesses.

That's what Roy Orbison was singing about.

PAUL BAUMANN

BOOKS

Citizens of the whole world

JAZZ CLEOPATRA
Josephine Baker in Her Time
Phyllis Rose
Doubleday, $22.50, 321 pp.

HE INCLUDED ME
The Autobiography of Sarah Rice
Transcribed and edited by Louise Westling
University of Georgia Press, $19.95, 181 pp.

MOTHERWIT
An Alabama Midwife's Story
Onnie Lee Logan as told to Katherine Clark
Dutton, $16.95, 177 pp.

Bette S. Weidman

When Ralph Waldo Emerson wrote his biographical studies of great men, he called them "representative" to express the way their individual genius concretely defined human potential. This use of the word leaps to mind with the three African-American women whose lives are described in these books. Josephine Baker, Sarah Rice, and Onnie Lee Logan are "representative" in Emerson's sense. Their lives are full realizations of capacities we would otherwise know only abstractly, and their stories give us three rich chapters in the life of humankind.

Phyllis Rose calls the life of Josephine Baker "a jazz improvisation." From her childhood of poverty in St. Louis and young adulthood of glamour in Paris as a star of the music hall stage, Baker (1906-1975) became an undercover resistance worker in World War II Europe and the adoptive mother of twelve children of different races and nationalities.

Important sources for Rose's book include autobiographical works, earlier biographies, and a novel Baker wrote with her husband. Rose conveys a strong appreciation for Baker's energy and intelligence, especially her capacity to see herself in relation to large historical and social forces. Generosity and vision were Baker's ruling characteristics.

Rose's biography begins in 1925 when Baker was nineteen, the star of the Revue Nègre in Paris. Rose devotes a particularly good discussion to the French cultural context that relished "African savagery" in rather gross racial stereotyping, but at the same time provided African-Americans

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acceptance of their real persons. Rose relates Baker's career, and the forms of popular culture in which her gift for movement was expressed, to Picasso's enthusiasm for African art and to the development of Cubism. But even more interesting than this discussion is Rose's account of Baker's marriages and love affairs, her creation of a huge family, her heroic struggle with illness and the death that came at sixty-nine, in the midst of the triumphant opening in Paris of the revue, *Josephine*.

Born in Alabama in 1909, Sarah Rice led a very different kind of life, both public and private. Also born to poverty, she had a reliable family, particularly a mother whose skills and determination inspired her white employers to help the young Rice get an education. Rice's father, a preacher, often away at conferences or other churches, did not provide amply, but the mother did domestic work, planted, sewed, taught her family, and even found time to read novels. Sarah is cut out of this pattern. Firm, capable, energetic, she recounts her family's way of life in rich detail, including information about food preparation, organization of the household, clothing, social events, childbearing. There is a rich chapter on her early teaching that recalls W.E.B. DuBois's account of an earlier period in *The Souls of Black Folk*. Sarah Rice was teaching an unbiased view of American Indian history in rural Alabama's black elementary schools in 1925, while the urban North lagged on this matter into the 1980s!

Rice's narrative describes her three marriages, her struggle to bring up her son, her move to Jacksonville, Florida, and her flowering as a church and civic leader in her new community and in statewide organizations. If Josephine Baker is a representative artist and performer, Sarah Rice is a shaper of social institutions.

In the introduction, Rice's collaborator, Louise Westling, the daughter of a former employer, carefully explains her method of collecting Rice's memoirs. Unfortunately, Rice's fellow-Floridian, Zora Neale Hurston, is mentioned only briefly here, in a list of novelists and poets. Hurston, folklorist and anthropologist, is of far more interest to a reader of Rice's story than are Booker T. Washington and Langston Hughes. *Mules and Men*, Hurston's collection of African-American folklore, and her autobiography, *Dust Tracks on a Road*, would make good companion reading for *He Included Me*.

Rice's oral history is described as autobiography. In contrast, *Motherwit* is subtitled *An Alabama Midwife's Story*, and the profession of midwifery is the special subject of the book. Onnie Lee Logan's personal life is fully treated, but subordinated to description of her work and the conditions she dedicated herself to improving. Her relation to the oral historian Katherine Clark, unlike that of Sarah Rice and Louise Westling, was not a personal, pre-existing one but emerged from Logan's desire to tell of her experience. In her introduction, Westling mentions the problem of the limits of trust between white employer and African-American employee: "When we began the project, we had a rapport which made the collaboration relaxed, even as it must certainly have limited some elements of the narrative." The limits of trust may have been even more significant in the production of *Motherwit*, as Logan and her family suffered deeply from racism; thus it is to the credit of both women that Logan is able to speak of the depredations of the Klan and of complicated interracial sexual relations.

Perhaps because she is so interested in the contribution of granny midwives to maternal and infant health in Alabama, Clark does not devote any of her introduction to the method by which she collected, transcribed, and edited Logan's narrative. But it is evident that the work was done with a sharp ear for dialect and a writer's interest in the speaker's English.

Onnie Lee Logan tells a multilayered story. She gives us the history of her own family, notable for her parents' ability to consolidate the economic gains of able predecessors. Her father inherited land and

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the skill to work it. He never had to sharecrop, and the family was able to feed itself—even through the Depression—and to help the less fortunate. Logan remembers many of the agricultural and domestic methods, as well as the generous spirit of her parents, who raised sixteen children and several orphans. The brief biographies of fifteen brothers and sisters are in themselves a history of Southern rural African-Americans in the early twentieth century. In telling these lives, Logan interweaves the influence of white racism; Amos, the brother who is lost, might be a figure in a Richard Wright story.

But overriding this theme, another, triumphant layer of story emerges: Onnie Lee Logan's gathering of information to supplement her early curiosity about the work of a midwife. The white doctors who instructed and encouraged her are remembered by name, as are the babies whose coming taught her midwifery through experience. This is, above all, Logan's story of coming into her life's work. That she supported herself and her child by domestic labor simultaneously only emphasizes what a work of love it was: going out to homes of all conditions in every weather and hour of the night, often with little or no recompense. As she tells about managing difficult births and creating healthful household conditions, the reader can grasp the continuity of this work with the experience of Logan's childhood.

In the fourth section of the book, "Motherwit," Logan discusses her experience-tested methods of aiding mothers. Any reader who has borne children will wish she had had a coach with Onnie Lee Logan's combination of ability to observe, ingenuity in regard to physical arrangements, and calm faith. That miserable persecution by certain white people reappears in the last section of the book is a painful story. Logan took abuse for transporting a hemorrhaging mother to a hospital when her attending physician could not be located. But the reader will relish her rebuke: "I said, 'Let me tell you one thing, Dr. So-and So.' I said, 'Let me tell you one thing.' I couldn't sit down and tell him. I had to stand up. I stood up and I says, 'You done gotten me riled up now. I don't belong in no Africa no mo' than you do. I was born and raised right here in America. If you want anybody to go to Africa to deliver babies, you go. I belong here!'"

It is our good fortune that Onnie Lee Logan belongs here and has given us not only the benefit of her experience but the rhythms of her speech. This book has the special quality that only carefully transcribed oral history can provide, letting us hear someone speak. Logan's speech is deeply satisfying: from the special use of words ("When I came into know") to the repetition of stories for emphasis. In both the substance and the manner of her story, Logan conveys a sense of the plenty of earth and the competence of one who eagerly embraces it. Logan does honor to her parents and her country; she is a mother of mothers, citizen of the whole earth. □

OLD KING COAL

WHERE THE SUN NEVER SHINES
A History of America's Bloody Coal Industry
Priscilla Long
Paragon House, $24.95, 331 pp.

Andrew Strom

In a time when labor-management struggles are as likely to take place in a boardroom as on a picket line, the recent strike by the United Mine Workers of America (UMWA) against the Pittston Coal Co. stood out as a reminder of another era. When the miners and their supporters occupied buildings and blocked roads, they recalled the sit-down strikers of the 1930s, while the involvement of entire families and towns brought to mind the days when unions stood at the center of community life. Moreover, the strikers' decision to dress in camouflage, motivated by a practical desire to make it difficult for company guards to identify individual miners, was also a grim reminder of the days when strikes often degenerated into armed conflict.

Despite the camouflage, and scattered outbreaks of violence, the Pittston strike was tame by historical standards. The subtitle of Priscilla Long's new book, *Where the Sun Never Shines*, is *A History of America's Bloody Coal Industry*, and in it Long offers an explanation for the ability miners have so often displayed to stand up to powerful coal companies. While confrontations with armed company guards could result in death, underground accidents were a much more constant danger. Thus, according to Long, the miner developed "an oblique perception that taking militant (at times military) action to improve his condition presented less risk to his life than did going to work."

Long has set out to write a history of coal mining in this country from its antecedents in England's Industrial Revolution until 1920, the year John L. Lewis became president of the UMWA. Long is at her best in the passages that detail the struggles of coal miners and their families against the greedy coal companies. Companies treated workers as replaceable parts, failing to take even the simplest precautions to make the mines safer. For example, in other countries one man would set off underground explosions at night while the mines were empty, but in the United States each miner fired his own explosive shots, so an errant explosion would kill dozens of men at once. Since miners were paid not by the hour, but by the ton, there was little incentive for companies to improve productivity. Instead, coal operators made money by cheating workers in weighing coal (at one mine, a man who weighed 155 pounds found that on a company scale he weighed only 35 pounds) and in forcing workers to buy at overpriced company stores.

The passages on life in the coal communities, which rely heavily on journals kept by miners and reports filed by state inspectors, make note of the important role that women played in mining communities. While we all know that mining is dirty work, Long forces the reader to consider

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the challenge of keeping clothes and house clean in the midst of the sooty coal mines. Where the book falters is in trying to pack too much material into such a short space. In her introduction, Long notes that "to do justice to the complexity of the real world," she must include "women's history, labor union history, business history, the history of work and of technology, and the history of working-class communities and cultures." Given the increasingly narrow focus of most historians, it is refreshing to watch someone try to transcend the boundaries of any one of these approaches. But Long is not content just to weave together various historiographical methods; she also tries to cover events which start in eighteenth century Great Britain and transverse two generations of mining in two separate regions of the United States—all in the space of 331 pages!

Where the Sun Never Shines consists of two roughly equal parts: the first half offers a broad overview of coal mining in this country in the nineteenth century, while the second half focuses on the coal industry in the American West, climaxing with the great Colorado Fuel and Iron Co. strike of 1913-14. The Colorado strike is the central event of the book, with the rest of the tale reading as either prologue or epilogue. That strike, which lasted for fourteen months and involved thousands of workers, featured, in a somewhat exaggerated fashion, many of the elements that were typical of labor relations in the turn-of-the-century coal industry.

These elements included workers of many different ethnic backgrounds; rich, well-connected mine operators; armed company guards; and the power of the state backing up the company. For example, in the Ludlow Tent Colony, which was the largest of the strikers' camps, there were twelve hundred individuals who spoke twenty-four different languages. The company, the Colorado Fuel and Iron Co., was controlled by John D. Rockefeller and railroad magnate George Gould. While acts of intimidation by armed company guards were a constant, at Ludlow guards opened fire on the strikers' camp, killing two women and eleven small children. Colorado Governor Elias Ammons demonstrated his sympathy for Rockefeller through both the pen and the sword. He had Ivy Lee, Rockefeller's publicist, compose his strike reports to President Woodrow Wilson, and at the same time he turned over the Colorado National Guard to reinforce company guards.

While the chapters on the strike feature considerably more detail than events covered elsewhere in the book, even here Long glosses over important issues. She strongly criticizes the UMWA leadership for lacking the "visionary boldness" necessary to call a nationwide work stoppage in support of the Colorado strikers, but does not offer a serious discussion of how such a strike would have fared against the superior resources of the mine operators.

Where the Sun Never Shines may not be the definitive history of the early years of coal mining in this country, but it does shed considerable light on life in mining communities. Long elegantly conveys the strength of character miners exhibited in doing battle with the powerful coal companies, and their creative responses to the challenges of building communities and unions in the oppressive company towns. The book ends with the rise of corporate liberalism as companies retreated from overt repression to more subtle anti-union tactics. But as the Pittston strike shows, the change was more of style than substance. Miners still die of black lung disease, and companies don't think twice before cutting off health insurance to ailing retirees. As Pittston fades from the headlines, this seems like an especially appropriate time for an account of the early struggles miners waged just to reach the point where the sun occasionally peeks into the mines.

STUCK IN THE FAST LANE?

THE SUN ALSO SETS
The Limits to Japan's Economic Power
William Emmott
Times Books, Inc., $19.95, 292 pp.

Peter Kovler

Recent polls show increasing American unfriendliness to Japan, and in this reviewer's totally unscientific style of surveying—talking to acquaintances and friends—the "data" come out the same. At present there is great resentment that "they" have beaten us and have replaced us in many world rankings. A large danger, of course, is that if things were to get really economically bad in the U.S., the Japanese might very well become the premier scapegoats. In a country such as ours with its history of anti-Nisei sentiment, the results could be disastrous.

How did we get to such a situation is a question often, even excessively, asked, but the pronoun should be changed and the question for each American should be rephrased to "How did I get in this situation?" In our family's world, this parent comes home late in the day and sees our oldest son playing Nintendo, the Japanese electronics game which American grammar school kids are hooked on and which has made Nintendo Corp. one of the most profitable in Japan. My other son struts around with his first Sony Walkman, a new device aimed at his age group, kids from three to five.

While we don't drive a Japanese car, our street looks as if it could be visual material for a TV ad for a Japanese car manufacturers' association. At night we'll watch something on our Japanese VCR. And, not infrequently, we will talk about our talented relative who graduated from college two years ago and has gone to Hiroshima to work for Mazda. Sometimes it feels as if the only things in our lives that have been made in the U.S. are our children.

It is largely because we are all getting so nuts about Japan that William Emmott's *The Sun Also Sets: The Limits to Japan's Economic Power* is such an important book. It performs the service that all great educational material does when timed just

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right: it demystifies that which seems omnipotent.

The subtitle pointing to Japan's "limits" is the key. The author, who lived in Japan for three years as Tokyo bureau chief for the *Economist*, makes a compelling case about why Japan may have trouble in certain areas. His European perspective is especially needed and refreshing, for unlike most American authors on this subject, he is not alternatingly expressing awe of the Japanese with disillusionment about Uncle Sam. The comparisons between how Europe reacts to Japan and how we do are especially enlightening.

Emmott begins by describing the Japanese challenge and finds inspiration in Mark Twain's remark, "Prosperity is the surest breeder of insolence I know." Emmott reminds us how between 1985 and 1988 the value of the yen doubled and how not even the world stock market collapse of 1987 affected the Japanese market. We are reminded of Japan's new pride in itself and its new assertiveness. But Emmott rhetorically asks about Japan: "Is it going to be a nation of savers, of producers, of workaholics, of the young? Is it, in other words, stuck in the fast lane?"

As for savings, Emmott shows how savings rates are actually going down, even if slowly. As for being a nation of producers rather then consumers, Emmott demonstrates the increasing rate of acquisitiveness. Workaholism may be the myth, but as with any society, a subsequent generation takes a somewhat dimmer notion of the driven life. A new generation seems to be a bit sensitive to the charge that all work and no play makes Jack (Yoshi?) a dull boy. Emmott does not suggest that the Japanese equivalent of my youth, the Age of Aquarius, is upon them, but he does make a strong case for a new generation's perspective.

His most forceful chapter is "A Nation of Speculators." The linkage between climbing land prices and climbing stock prices is apparent, he writes, and the explanations to justify such numbers "are unconvincing."

The details on profits of some major Japanese companies in the mid-eighties are also compelling. Many of them made their money through "trading," a method of making a living that is arguably riskier then free-lance writing.

"In its 1986-87 fiscal year, Nissan, Japan's second largest maker of cars and trucks, would have reported a loss had it not been for profits on securities trading. In the year to March 1988, securities profits accounted for more than half the pretax profits of Matsushita Electric (58.8 percent), Nissan (65.3 percent), Japan Victor Company (93 percent), and Sharp (73 percent). It was 134 percent of the pretax income at Sanyo and 1,962 percent at Isuzu—that is, profits on securities were nearly twenty times larger than profits on ordinary business."

Ultimately, Emmott is rather optimistic about the ways in which Japan, the U.S., and Europe can work together. His closing analogy—that Japan will have to be listened to now, much as "European countries have been since the 1950s"—is convincing and does not suggest a calamity for anybody. While the book was written before the collapse of communism in the USSR and Eastern Europe—and therefore has numerous thoughts about how Japan fits

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into the superpower equation—the fact that the author's observations about Japan remain powerful is a claim to relevance that few journalism-history-world affairs books of 1990 can make. □

CORRESPONDENCE

(Continued from page 274)

tions of public policy raised by the abortion issue. Abortion policy must balance the conflicting claims of different interests (believers, agnostics, atheists) as well as the competing values of freedom, order, equity, justice, and privacy. There is no single Catholic solution to this policy dilemma just as there is no single Jewish or no single Methodist answer. MARY C. SEGERS

Caring for orphans

Rochester, N.Y.

To the Editors: Two articles by Abigail McCarthy [December 1, 1989, and January 26] advocate a return to the days of the orphanage as a solution to the growing problems of families who do not appear able to raise their children properly.

I strongly disagree.... Children need to form stable relationships to develop into healthy adults, and staff that rotates in eight-hour shifts, no matter how well trained or caring, can never take the place of a traditional family, be it biological, foster, or adoptive.... Rather than turning to congregate care, as a first step we should be investing more in strengthening biological families. Intensive home-based services have proved effective in preventing the need for placement. At a cost of only $5,000 per year per *family* as opposed to $13,500 to $35,000 per year for each *child* in foster care, these services rehabilitate families and reduce traumatic separation.

Instead of dismissing adoption as an impossible goal, advocates across the country should work to remove financial disincentives to adoption. Contrary to Ms. McCarthy's statement that the administration offers little practical help, federal law allows foster care payments to be continued as adoption subsidy; in New York, subsidy equals at least 75 percent of the foster care stipend, and a continuing medical subsidy is also available....

It is reassuring that "orphans" of yesterday have pleasant memories of their childhood, but this is not the solution we should be seeking to today's problems. The cost, both in dollars and in human potential, is far too great. MARYJANE LINK

The writer is chair of the Adoption Action Network, a New York state coalition of child care professionals and advocates of improved adoption services.

The author replies:

Reader Link has misunderstood my intent and the intent of the authorities cited in the columns to which she refers. The discussion was of group homes—a better term for the modern equivalent than "orphanage"—not as a *substitute* for adoption, but as a currently overlooked *alternative* "if adoption is not feasible" (January 26 column). Unfortunately "the idealistic goal of providing a place in a stable family for each and every child....has proved impossible to attain."

As things are, of the probable nine hundred thousand children born out of wedlock each year only fifty-one thousand are adopted. Certainly every effort should be made to increase that number, but the best of efforts will not meet the crisis of the abandoned "boarder babies" overflowing hospital nurseries, and the uncounted thousands of homeless, hungry, neglected, and abused children in this country today.

The group homes we advocate—and there are models here and abroad—house children in family-size groups and are staffed not by rotating eight-hour caregivers but by residential "substitute parents." In addition to providing security and stability, the homes have the advantage of keeping siblings together.

As to the adequacy of the commitment of the administration to adoption, my source was Reagan-Bush presidential assistant Bruce Chapman, now Hudson Institute senior fellow. I must leave any further substantiation to him. ABIGAIL McCARTHY

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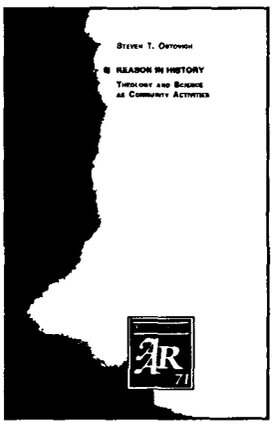
REASON IN HISTORY
Steve Ostovich



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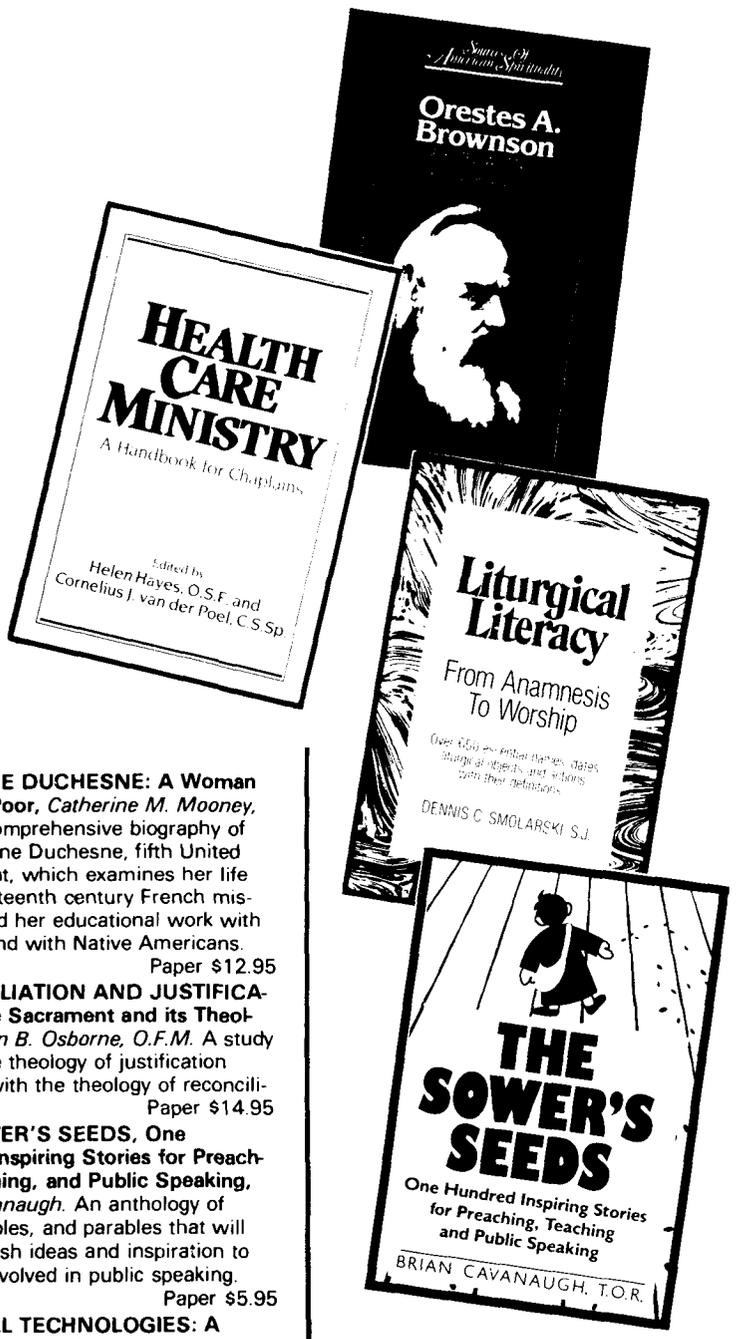
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